

HOUSE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 361, 103, 156 & 329

1 AN ACT

2 To repeal sections 260.273, 319.125, 319.127,
3 319.139, 393.015, 640.100, 640.115, 640.605,
4 640.615, 640.620, 640.700, 640.703, 640.710,
5 640.715, 640.725, 640.730, 640.735, 640.740,
6 640.745, 640.747, 640.750, 640.755, 640.758,
7 643.078, 644.016, and 644.051, RSMo, section
8 319.137 as enacted by house committee
9 substitute for senate substitute for senate
10 bill no. 3, eighty-eighth general assembly,
11 first regular session, and section 319.137 as
12 enacted by house bill no. 251, eighty-eighth
13 general assembly, first regular session, and
14 to enact in lieu thereof seventy-six new
15 sections relating to waste, with penalty
16 provisions.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
18 AS FOLLOWS:

19 Section A. Sections 260.273, 319.125, 319.127, 319.139,
20 393.015, 640.100, 640.115, 640.605, 640.615, 640.620, 640.700,
21 640.703, 640.710, 640.715, 640.725, 640.730, 640.735, 640.740,
22 640.745, 640.747, 640.750, 640.755, 640.758, 643.078, 644.016,
23 and 644.051, RSMo, section 319.137 as enacted by house committee
24 substitute for senate substitute for senate bill no. 3, seventy-

1 seven eighty-eighth general assembly, first regular session, and
2 section 319.137 as enacted by house bill no. 251, eighty-eighth
3 general assembly, first regular session, are repealed and
4 seventy-six new sections enacted in lieu thereof, to be known as
5 sections 204.600, 204.605, 204.610, 204.615, 204.620, 204.625,
6 204.630, 204.635, 204.640, 204.645, 204.650, 204.655, 204.660,
7 204.665, 204.670, 204.675, 204.680, 204.685, 204.690, 204.695,
8 204.700, 204.705, 204.710, 204.715, 204.720, 204.725, 204.730,
9 204.735, 204.740, 204.745, 204.750, 204.755, 204.760, 260.219,
10 260.273, 319.125, 319.127, 319.137, 319.139, 393.015, 393.018,
11 393.1000, 393.1003, 393.1006, 640.100, 640.115, 640.605, 640.615,
12 640.620, 643.078, 644.016, 644.051, 644.145, 644.581, 644.582,
13 644.583, 644.600, 644.603, 644.610, 644.615, 644.617, 644.625,
14 644.630, 644.635, 644.640, 644.645, 644.647, 644.650, 644.655,
15 644.657, 1, 2, 3, 4, 5, and 6, to read as follows:

16 204.600. 1. The provisions of sections 204.600 to 204.700
17 shall not apply to any sewer district in a county of the first
18 classification.

19 2. Any common sewer district organized and existing
20 pursuant to sections 204.250 to 204.270, and any sewer district
21 organized and existing pursuant to chapter 249, RSMo, except
22 sewer districts subject to section 204.472 may be converted to a
23 reorganized common sewer district pursuant to sections 204.600 to
24 204.700. In addition, a reorganized common sewer district may be
25 established as provided for in sections 204.600 to 204.700. Once

1 established, a reorganized common sewer district shall have all
2 powers and authority of and applicable to a common sewer district
3 organized and existing pursuant to sections 204.250 to 204.270
4 and applicable to a sewer district established pursuant to
5 chapter 249, RSMo, which are not inconsistent or in conflict with
6 sections 204.600 to 204.700.

7 204.605. 1. Proceedings for the new formation of a
8 reorganized common sewer district pursuant to sections 204.600 to
9 204.700 shall be substantially as follows: a petition in
10 duplicate describing the proposed boundaries of the reorganized
11 district sought to be formed, accompanied by a plat of the
12 proposed district, shall be filed with the clerk of the circuit
13 court of the county wherein the proposed district is situated or
14 with the clerk of the circuit court of the county having the
15 largest acreage proposed to be included in the proposed district,
16 in the event that the proposed district embraces lands in more
17 than one county. Such petition, in addition to such boundary
18 description, shall set forth an estimate of the number of
19 customers of the proposed district, the necessity for the
20 formation of the district, the probable cost of acquiring or
21 constructing sanitary sewer improvements with the district, if
22 appropriate, an approximation of the assessed valuation of
23 taxable property within the district, whether the board of
24 trustees shall be elected or appointed by the county commission,
25 and such other information as may be useful to the court in

1 determining whether or not the petition should be granted and a
2 decree of incorporation entered. Such petition shall be
3 accompanied by a cash deposit of fifty dollars as an advancement
4 of the costs of the proceeding, and the petition shall be signed
5 by not less than fifty voters or property owners within the
6 proposed district and shall pray for the incorporation of the
7 territory therein described into a reorganized common sewer
8 district. The petition shall be verified by at least one of the
9 signers thereof.

10 2. Upon the filing of the petition, the same shall be
11 presented to the circuit court, and such court shall fix a date
12 for a hearing on such petition, as herein provided for.
13 Thereupon the clerk of the court shall give notice of the filing
14 of the petition in a newspaper of general circulation in the
15 county in which the proceedings are pending, and if the district
16 extends into any other county or counties, such notice shall also
17 be published in some newspaper of general circulation in such
18 other county or counties. The notice shall contain a description
19 of the proposed boundary lines of the district and the general
20 purposes of the petition, and shall set forth the date fixed for
21 the hearing on the petition, which shall not be less than fifteen
22 nor more than twenty-one days after the date of the last
23 publication of the notice and shall be on some regular judicial
24 day of the court wherein the petition is pending. Such notice
25 shall be signed by the clerk of the circuit court and shall be

1 published in three successive issues of a weekly newspaper or in
2 a daily paper once a week for three consecutive weeks.

3 3. The court, for good cause shown, may continue the case
4 or the hearing thereon from time to time until final disposition
5 thereof.

6 4. Exceptions to the formation of a district, or to the
7 boundaries outlined in the petition for the incorporation
8 thereof, may be made by any voter or property owner within the
9 proposed district; provided, such exceptions are filed not less
10 than five days prior to the date set for the hearing on the
11 petition. Such exceptions shall specify the grounds upon which
12 the exceptions are being made. If any such exceptions be filed,
13 the court shall take them into consideration in passing upon the
14 petition and shall also consider the evidence in support of the
15 petition and in support of the exceptions made. Should the court
16 find that the petition should be granted but that changes should
17 be made in the boundary lines, it shall make such changes in the
18 boundary lines as set forth in the petition as the court may deem
19 proper, and thereupon enter its decree of incorporation, with
20 such boundaries as changed.

21 5. Should the court find that it would not be to the public
22 interest to form such a district, the petition shall be dismissed
23 at the costs of the petitioners. If, however, the court should
24 find in favor of the formation of such district, the court shall
25 enter its decree of incorporation, setting forth the boundaries

1 of the proposed district as determined by the court under the
2 hearing. The decree shall further contain an appointment of five
3 voters from the district, to constitute the first board of
4 trustees of the district. The court shall designate such
5 trustees to staggered terms from one to five years such that one
6 director is appointed or elected each year. The trustees thus
7 appointed by the court shall serve for the terms thus designated
8 and until their successors shall have been appointed or elected
9 as provided in section 204.625. The decree shall further
10 designate the name of the district by which it shall be
11 officially known.

12 6. The decree of incorporation shall not become final and
13 conclusive until it shall have been submitted to the voters
14 residing within the boundaries described in such decree and until
15 it shall have been assented to by a majority of the voters as
16 provided in subsection 9 of this section or by two-thirds of the
17 voters of the district voting on the proposition. The decree
18 shall provide for the submission of the question and shall fix
19 the date thereof. The returns shall be certified by the judges
20 and clerks of election to the circuit court having jurisdiction
21 in the case and the court shall thereupon enter its order
22 canvassing the returns and declaring the result of such election.

23 7. If a majority of the voters of the district voting on
24 such proposition approve of the proposition, then the court
25 shall, in such order declaring the result of the election, enter

1 a further order declaring the decree of incorporation to be final
2 and conclusive. In the event, however, that the court should
3 find that the question had not been assented to by the majority
4 required above, the court shall enter a further order declaring
5 such decree of incorporation to be void and of no effect. No
6 appeal shall lie from any such decree of incorporation nor from
7 any of the aforesaid orders. In the event that the court
8 declares the decree of incorporation to be final, as herein
9 provided for, the clerk of the circuit court shall file certified
10 copies of such decree of incorporation and of such final order
11 with the secretary of state, and with the recorder of deeds of
12 the county or counties in which the district is situated and with
13 the clerk of the county commission of the county or counties in
14 which the district is situated.

15 8. The costs incurred in the formation of the district
16 shall be taxed to the district, if the district be incorporated
17 otherwise against the petitioners.

18 9. If petitioners seeking formation of a reorganized common
19 sewer district specify in their petition that the district to be
20 organized shall be organized without authority to issue general
21 obligation bonds, then the decree relating to the formation of
22 the district shall recite that the district shall not have
23 authority to issue general obligation bonds and the vote required
24 for such a decree of incorporation to become final and conclusive
25 shall be a simple majority of the voters of the district voting

1 on such proposition.

2 10. Once a reorganized sewer district is established, the
3 boundaries of any reorganized sewer district may be extended or
4 enlarged from time to time upon the filing, with the clerk of the
5 circuit court having jurisdiction, a petition by either:

6 (1) The board of trustees of the reorganized sewer district
7 and five or more voters within the territory proposed to be added
8 to the district; or

9 (2) A majority of the landowners within the territory which
10 is proposed to be added to the reorganized sewer district.

11 If the petition is filed by a majority of the landowners within
12 the territory proposed to be added to the reorganized sewer
13 district, the publication of notice shall not be required,
14 provided notice is posted in three public places within the
15 territory proposed to be added to the reorganized sewer district
16 at least seven days before the date of the hearing and provided
17 that there is sworn testimony by at least five landowners in the
18 territory proposed to be added to the reorganized sewer district,
19 or a majority of the landowners, if the total landowners in the
20 area are fewer than ten. Otherwise the procedures for notice
21 shall substantially follow those set out in this section, for
22 formation. Territory proposed to be added to the reorganized
23 sewer district may either be contiguous or reasonably close to
24 the boundaries of the existing district. Upon the entry of a
25 final judgment declaring the court's decree of territory proposed

1 to be added to the reorganized sewer district to be final and
2 conclusive, the court shall modify or rearrange the boundary
3 lines of the reorganized sewer district as may be necessary or
4 advisable. The costs incurred in the enlargement or extension of
5 the district shall be taxed to the district, if the district be
6 enlarged or extended, otherwise against the petitioners;
7 provided, however, that no costs shall be taxed to the trustees
8 of the district.

9 11. Should any property owner or property owners who own
10 real estate that is not within another sewer district organized
11 pursuant to this chapter, chapters 247 and 249, RSMo, or pursuant
12 to the state constitution, but that is contiguous or reasonably
13 close to the existing boundaries of the reorganized sewer
14 district, desire to have such real estate incorporated in the
15 district, the property owner shall first petition the board of
16 trustees thereof for its approval. If such approval be granted,
17 the secretary of the board shall endorse a certificate of the
18 fact of approval by the board upon the petition. The petition so
19 endorsed shall be filed with the clerk of the circuit court in
20 which the reorganized sewer district is incorporated. It shall
21 then be the duty of the court to amend the boundaries of such
22 district by a decree incorporating the real estate in the same.
23 A certified copy of this amended decree including the real estate
24 in the district shall then be filed in the office of the recorder
25 and in the office of the county clerk of the county in which the

1 real estate is located, and in the office of the secretary of
2 state. The costs of this proceeding shall be borne by the
3 petitioning property owner.

4 12. The board of trustees of any reorganized common sewer
5 district may petition the circuit court of the county containing
6 the majority of the acreage in the district for an amended decree
7 of incorporation to allow that district to engage in the
8 construction, maintenance and operation of water supply and
9 distribution facilities which serve ten or more separate
10 properties which are located wholly within the district and are
11 not served by another political subdivision or are not located
12 within the certificated area of a water corporation as defined in
13 chapter 386, RSMo, or within a public water supply district as
14 defined in chapter 247, RSMo, and the operation and maintenance
15 of all such existing water supply facilities. The petition shall
16 be filed by the board of trustees and all proceedings shall be in
17 substantially the same manner as in action for initial formation
18 of a reorganized common sewer district except that no vote of the
19 residents of the district shall be required. All applicable
20 provisions of this chapter shall apply to the construction,
21 operation and maintenance of water supply facilities in the same
22 manner as they apply to like functions relating to sewer
23 treatment facilities.

24 204.610. 1. Any existing common sewer district organized
25 and existing pursuant to sections 204.250 to 204.270 and any

1 sewer district organized and existing pursuant to chapter 249,
2 RSMo, may establish itself as a reorganized common sewer district
3 pursuant to sections 204.600 to 204.700 by petitioning the
4 circuit court of the county in which it was established to
5 approve its reorganization pursuant to sections 204.600 to
6 204.700 if the governing body of the district has by resolution
7 determined that it is in the best interest of the district to
8 reorganize pursuant to sections 204.600 to 204.700. Such
9 petition shall also specify whether the board of trustees shall
10 be appointed by the governing body of the county, or elected by
11 the voters of the district. Such petition shall be accompanied
12 by a cash deposit of fifty dollars as an advancement of the costs
13 of the proceeding, and the petition shall be signed by the
14 trustees of the district and shall pray for the conversion of the
15 district into a reorganized common sewer district.

16 2. Upon the filing of the petition, the same shall be
17 presented to the circuit court, and such court shall fix a date
18 for a hearing on such petition, as herein provided for.
19 Thereupon the clerk of the court shall give notice of the filing
20 of the petition in a newspaper of general circulation within the
21 existing district or closest to the existing district if there is
22 no newspaper of general circulation within the existing district
23 and if the existing district extends into any other county or
24 counties, such notice shall also be published in some newspaper
25 of general circulation in such other county or counties. The

1 notice shall contain a description of the boundary lines of the
2 existing district and the general purposes of the petition, and
3 shall set forth the date fixed for the hearing on the petition,
4 which shall not be less than fifteen nor more than twenty-one
5 days after the date of the last publication of the notice and
6 shall be on some regular judicial day of the court wherein the
7 petition is pending. Such notice shall be signed by the clerk of
8 the circuit court and shall be published in three successive
9 issues of a weekly newspaper or in a daily paper once a week for
10 three consecutive weeks.

11 3. The court, for good cause shown, may continue the case
12 or the hearing thereon from time to time until final disposition
13 thereof.

14 4. Exceptions to the conversion of an existing district to
15 a reorganized common sewer district, may be made by any voter or
16 property owner within the proposed district; provided, such
17 exceptions are filed not less than five days prior to the date
18 set for the hearing on the petition. Such exceptions shall
19 specify the grounds upon which the exceptions are being made. If
20 any such exceptions be filed, the court shall take them into
21 consideration in passing upon the petition and shall also
22 consider the evidence in support of the petition and in support
23 of the exceptions made. Should the court find that it would not
24 be in the public interest to form such a district, the petition
25 shall be dismissed at the costs of the petitioners. If the court

1 finds that the conversion of the district to a reorganized common
2 sewer district pursuant to sections 204.600 to 204.700 is in the
3 best interests of the persons served by the existing district,
4 then the court shall order the district's decree of incorporation
5 amended to permit reorganization pursuant to sections 204.600 to
6 204.700 and the existing board of trustees for such district
7 shall continue to serve the reorganized common sewer district
8 until such time as new trustees shall be appointed or elected as
9 provided for in the court's decree. If their original terms of
10 office are not so designated, the court shall designate such
11 trustees to staggered terms from one to five years such that one
12 trustee is appointed or elected each year. The trustees thus
13 appointed by the court shall serve for the terms thus designated
14 and until their successors shall have been appointed or elected
15 as provided in section 204.625. The decree shall further
16 designate the name of the district by which it shall be
17 officially known.

18 204.615. The bonded indebtedness or security interest of
19 any creditor of any common sewer district originally organized
20 and existing pursuant to sections 204.250 to 204.270 and any
21 sewer district originally organized and existing pursuant to
22 chapter 249, RSMo, which convert to a reorganized common sewer
23 district shall not be impaired or affected by such conversion and
24 all covenants and obligations of such indebtedness shall remain
25 in full force and effect payable pursuant to the terms and

1 conditions which existed without conversion.

2 204.620. 1. When a decree or amended decree of
3 incorporation is issued as provided for in sections 204.600 to
4 204.700, a reorganized common sewer district shall be considered
5 in law and equity a body corporate and politic and political
6 subdivision of this state, known by the name specified in the
7 court's decree, and by that name and style may sue and be sued,
8 contract and be contracted with, acquire and hold real estate and
9 personal property necessary for corporate purposes, and adopt a
10 common seal. A reorganized common sewer district also shall have
11 exclusive jurisdiction and authority to provide wastewater
12 collection and treatment services within the boundaries of the
13 district with respect to any wastewater service provider
14 authorized to provide sewer services pursuant to the laws of this
15 state.

16 2. All courts in this state shall take judicial notice of
17 the existence of any district organized pursuant to sections
18 204.600 to 204.700.

19 204.625. 1. There shall be five trustees, appointed or
20 elected as provided for in the circuit court decree or amended
21 decree of incorporation for a reorganized common sewer district,
22 who shall reside within the boundaries of the district. Each
23 trustee shall be a voter of the district and shall have resided
24 in said district one whole year immediately prior to his/her
25 election or appointment. A trustee shall be at least twenty-five

1 years of age and shall not be delinquent in the payment of taxes
2 at the time of his or her election or appointment. Regardless of
3 whether or not the trustees are elected or appointed, in the
4 event the district extends into any county bordering the county
5 in which the greater portion of the district lies, the presiding
6 commissioner or other chief executive officer of the adjoining
7 county shall be an additional member of the board of trustees, or
8 the governing body of such bordering county may appoint a citizen
9 from such county to serve as an additional member of the board of
10 trustees. Said additional trustee shall meet the qualifications
11 set forth above for a trustee.

12 2. The trustees shall receive no compensation for their
13 services, but may be compensated for their reasonable expenses
14 normally incurred in the performance of their duties. The board
15 of trustees may employ and fix the compensation of such staff as
16 may be necessary to discharge the business and purposes of the
17 district, including clerks, attorneys, administrative assistants,
18 and any other necessary personnel. The board of trustees may
19 employ and fix the duties and compensation of an administrator
20 for the district. The administrator shall be the chief executive
21 officer of the district subject to the supervision and direction
22 of the board of trustees. The administrator of the district may,
23 with the approval of the board of trustees, retain consulting
24 engineers for the district under such terms and conditions as may
25 be necessary to discharge the business and purposes of the

1 district.

2 3. Except as provided in subsection 1 of this section, the
3 term of office of a trustee shall be five years. The remaining
4 trustees shall appoint a person qualified pursuant to this
5 section to fill any vacancy on the board. The initial trustees
6 appointed by the circuit court shall serve until the immediately
7 following first Tuesday after the first Monday in June or until
8 the immediately following first Tuesday after the first Monday in
9 April, depending upon the resolution of the trustees. In the
10 event that the trustees are elected, said elections shall be
11 conducted by the appropriate election authority pursuant to
12 chapter 115, RSMo. Otherwise, trustees shall be appointed by the
13 county commission in accordance with the qualifications set forth
14 in subsection 1 of this section.

15 4. Notwithstanding any other provision of law, if there is
16 only one candidate for the post of trustee, then no election
17 shall be held, and the candidate shall assume the
18 responsibilities of office at the same time and in the same
19 manner as if elected. If there is no candidate for the post of
20 trustee, then no election shall be held for that post and it
21 shall be considered vacant, to be filled pursuant to the
22 provisions of subsection 3 of this section.

23 204.630. The board of trustees of a reorganized common
24 sewer district shall have no power to levy or collect any taxes
25 for the payment of any general obligation bond indebtedness

1 incurred by the reorganized common sewer district unless and
2 until the voters of the reorganized common sewer district shall
3 have authorized the incurring of indebtedness at an election.
4 All expenses and indebtedness incurred by the reorganized common
5 sewer district may be paid out of funds which may be received by
6 the reorganized common sewer district from the sale of bonds
7 authorized by the voters of the reorganized common sewer
8 district.

9 204.635. 1. The total amount of any general obligation
10 bonds issued by the reorganized common sewer district shall not
11 exceed ten percent of the assessed valuation of all taxable
12 tangible property, as shown by the last completed property
13 assessment for state or local purposes, within the reorganized
14 common sewer district.

15 2. Such bonds shall be signed by the president of the board
16 of trustees and attested by the signature of the secretary of the
17 board of trustees with the seal of the district affixed thereto,
18 if there be a seal. The interest coupons may be executed by
19 affixing thereon the facsimile signature of the secretary of the
20 district. The bonds may be sold under the same conditions as are
21 provided for the sale of county road bonds.

22 3. All general obligation bonds issued pursuant to sections
23 204.600 to 204.700 shall be registered in the office of the state
24 auditor as provided by law for the registration of bonds of
25 cities and in the office of the secretary of the board of

1 trustees of the district in a book kept for that purpose for
2 registry, shall show the number, date, amount, date of sale, name
3 of the purchaser, and the amount for which the bond was sold.
4 The moneys of the reorganized common sewer district shall be
5 deposited by the treasurer of the reorganized common sewer
6 district in such bank or banks as shall be designated by order of
7 the board of trustees and the secretary of the reorganized common
8 sewer district shall charge the treasurer therewith and the
9 moneys shall be drawn from the treasury upon checks or warrants
10 issued by the reorganized common sewer district for the purposes
11 for which the bonds were issued.

12 204.640. 1. The board of trustees of any reorganized
13 common sewer district shall have power to pass all necessary
14 rules and regulations for the proper management and conduct of
15 the business of the board of trustees, and of the district, and
16 for carrying into effect the objects for which the reorganized
17 common sewer district is formed.

18 2. The board of trustees of a reorganized common sewer
19 district, subject to compliance with the exercise of lawful
20 authority granted to or rules adopted by the clean water
21 commission pursuant to section 644.026, RSMo, may exercise
22 primary authority to adopt, modify, and repeal, and to administer
23 and enforce rules and regulations with respect to:

24 (1) The establishment, construction, reconstruction,
25 improvement, repair, operation, and maintenance of its sewer

1 systems and treatment facilities;

2 (2) Industrial users discharging into its sewer systems or
3 treatment facilities;

4 (3) The establishment, operation, administration, and
5 enforcement of a publicly owned treatment works pretreatment
6 program consistent with state and federal pretreatment standards,
7 including inspection, monitoring, sampling, permitting, and
8 reporting programs and activities.

9 The board of trustees may, in addition to any pretreatment
10 standards imposed pursuant to this section, require of any user
11 of its treatment facilities such other pretreatment of industrial
12 wastes as it deems necessary to adequately treat such wastes.

13 3. The rules and regulations adopted by the board of
14 trustees pursuant to subsection 2 of this section shall be
15 applicable, and enforceable by civil, administrative or other
16 actions within any territory served by its sewer systems or
17 treatment facilities and against any municipality, subdistrict,
18 district, or industrial user who shall directly or indirectly
19 discharge sewage or permit discharge of sewage into the
20 district's sewer system or treatment facilities.

21 4. The authority granted to the board by this section is in
22 addition to and not in derogation of any other authority granted
23 pursuant to the constitution and laws of Missouri, any federal
24 water pollution control act, or the rules of any agency of
25 federal or state government.

1 5. The term "industrial user", as used in this section
2 shall mean any nondomestic source of discharge or indirect
3 discharge into the district's wastewater system which is
4 regulated pursuant to section 307(b), (c), or (d) of the Clean
5 Water Act, or any source listed in division A, B, D, E, or I of
6 the Standard Industrial Classification Manual, or any solid waste
7 disposal operation such as, but not limited to, landfills,
8 recycling facilities, solid or hazardous waste handling or
9 disposal facilities, and facilities which store or treat aqueous
10 wastes as generated by facilities not located on site and which
11 dispose of these wastes by discharging them into the district's
12 wastewater system.

13 204.645. 1. It shall be the duty of the board of trustees
14 of a reorganized common sewer district to make the necessary
15 surveys, and to lay out and define the general plan for the
16 construction and acquisition of land, rights-of-way and necessary
17 sewers and treatment facilities and of any extensions,
18 expansions, or improvements thereof within the district.

19 2. The board of trustees of a reorganized common sewer
20 district may enter into agreements with each municipality,
21 subdistrict, private district, or any industrial user which
22 discharges sewage into trunk sewers, streams, or the treatment
23 facilities of the reorganized common sewer district concerning
24 the locations and the manner in which sewage may be discharged
25 into the district system or streams within the district and

1 concerning the permissible content of acid wastes, alkaline
2 wastes, poisonous wastes, oils, grit, or other wastes which might
3 be hazardous or detrimental to the system. If no agreement is
4 obtained with regard to any such matter the trustees shall refer
5 the dispute to the clean water commission and the determination
6 of the commission shall be binding upon the district,
7 municipality, subdistrict, or private district. Each
8 municipality, subdistrict, or private district shall control the
9 discharge of wastes into its collection sewers to the extent
10 necessary to comply with the agreement or the determination of
11 the clean water commission. The board of trustees of a
12 reorganized common sewer district or the governing body of any
13 municipality, subdistrict, private district, or industrial user
14 discharging sewage into the stream or the system may petition the
15 circuit court which decreed the incorporation of the district for
16 an order enforcing compliance with any provision of such an
17 agreement or determination, and that circuit court shall have
18 jurisdiction in all cases or questions arising out of the
19 organization or operations of the district, or from the acts of
20 the board of trustees.

21 3. The board of trustees may contract with each
22 participating community for the payment of its proportionate
23 share of treatment costs.

24 4. The board of trustees may contract with public agencies,
25 individuals, private corporations, and political subdivisions,

1 inside and outside the reorganized common sewer district to
2 permit them to connect with and use the district's facilities
3 according to such terms, conditions, and rates as the board
4 determines are in the interest of the district and regardless of
5 whether such agencies, individuals, corporations, and
6 subdivisions are in the same natural drainage area or basins as
7 the district. However, if such an area is located within the
8 boundaries of an existing common sewer district or reorganized
9 common sewer district organized and existing pursuant to this
10 chapter, a sewer district organized and existing pursuant to
11 chapter 249, RSMo, or a public water supply district organized
12 pursuant to chapter 247, RSMo, the board of trustees must give
13 written notice to said district before such a contract is entered
14 into, and the district must consent to said contract.

15 5. The board of trustees may refuse to receive any wastes
16 into the sewage system which do not meet relevant state or
17 federal water pollution, solid waste, or pretreatment standards.

18 6. The board of trustees shall have all of the powers
19 necessary and convenient to provide for the operation,
20 maintenance, administration, and regulation, including the
21 adoption of rules and regulations, of any individual home sewage
22 or business treatment systems within the jurisdiction of the
23 common sewer district. The board of trustees shall have the
24 authority to declare the violation of any of its rules and
25 regulations to be a misdemeanor punishable as provided by law, or

1 to declare violation of any of its rules and regulations
2 punishable by imposition of a civil fine not to exceed one
3 thousand dollars per day payable to the common sewer district, in
4 addition to any other civil remedy which may be available at law
5 or in equity.

6 7. The board of trustees shall have all of the powers
7 necessary and convenient to provide for the operation and
8 maintenance of its treatment facilities and the administration,
9 regulation, and enforcement of its pretreatment program,
10 including the adoption of rules and regulations, to carry out its
11 powers with respect to all municipalities, subdistricts,
12 districts, and industrial users which discharge into the
13 collection system of the district's sewer system or treatment
14 facilities. These powers include, but are not limited to:

15 (1) The promulgation of any rule, regulation, or ordinance;
16 (2) The issuance, modification, or revocation of any order;
17 (3) The issuance, modification, or revocation of any
18 permit;

19 (4) The levying of a civil administrative fine upon any
20 industrial user in violation of the district's rules,
21 regulations, and ordinances, or any permit or order issued
22 thereunder, in an amount not to exceed one thousand dollars per
23 violation per day;

24 (5) Commencing an action through counsel for appropriate
25 legal or equitable relief in the circuit court which decreed the

1 district's incorporation against any industrial user in violation
2 of the district's rules, regulations, and ordinances or any
3 permit or order issued thereunder; and

4 (6) Petitioning the prosecutor for the county in which any
5 criminal violation of the district's rules, regulations,
6 ordinances, or any permit or order issued thereunder has occurred
7 to institute criminal proceedings.

8 8. The board of trustees may adopt rules and regulations
9 creating procedural remedies for all persons affected by any
10 order or permit issued, modified, or revoked or any fine or
11 penalty levied by the board including but not limited to the
12 grant of reasonable time periods for such persons to respond, to
13 show cause, and to request reconsideration of fines or penalties
14 levied.

15 9. Any person who knowingly makes any false statements,
16 representations, or certifications in any application, record,
17 report, plan, or other document filed or required to be
18 maintained pursuant to the district's rules, regulations,
19 ordinances, or wastewater permit, or who falsifies, tampers with,
20 or knowingly renders inaccurate any monitoring device or method
21 required under the district's rules, regulations, or ordinances
22 shall be fined not more than one thousand dollars per violation
23 per day. In the event of a second violation, the person shall be
24 fined not to exceed three thousand dollars per violation per day.
25 Third or subsequent violations of this subsection are punishable

1 as a class D felony.

2 10. Whenever any reference is made in this section to any
3 action that may be taken by the board of trustees, such reference
4 includes such action by its executive officer pursuant to powers
5 and duties delegated to such executive officer by the board of
6 trustees.

7 204.650. 1. The board of trustees may acquire by purchase,
8 gift, or condemnation or may lease or rent any real or personal
9 property and when condemnation is used shall follow the procedure
10 that is provided by chapter 523, RSMo. All the powers may be
11 exercised both within or without the district as may be necessary
12 for the exercise of its powers or the accomplishment of its
13 purposes. The board of trustees shall also have the same
14 authority to enter upon private lands to survey land or other
15 property before exercise of the above condemnation powers as is
16 granted pursuant to section 388.210, RSMo, to railroad
17 corporations.

18 2. The board of trustees of the reorganized common sewer
19 district, if it is necessary to cross, follow, or traverse public
20 streets, roads, or alleys, or grounds held or used as public
21 parks or places, shall have the right to do so upon the following
22 conditions: The board of trustees shall file with the county
23 commission or mayor of the municipality having immediate
24 jurisdiction over the street, road, alley, or public park or
25 place, a map showing the location and extent of the proposed

1 occupancy for sewerage purposes and a plan of the proposed
2 facilities, which plan shall be so made and arranged as not to
3 interfere with the ordinary and lawful use of the street, road,
4 alley, public park, or place, except during a reasonable time for
5 the construction of the necessary works.

6 3. The entire expense of the works and restoration of the
7 ground occupied to its former condition, as near as may be, shall
8 be borne by the reorganized common sewer district.

9 204.655. 1. The board of trustees for the reorganized
10 common sewer district shall let contracts for all work to be
11 done, excepting in case of repairs or emergencies requiring
12 prompt attention, in the construction of sewers and sewage
13 treatment plants, the expense of which will exceed twenty-five
14 thousand dollars, to the lowest responsible bidder therefor, upon
15 not less than twenty days' notice of the letting, given by
16 publication in a newspaper of general circulation in the
17 district. The board shall have the power and authority to reject
18 any and all bids and readvertise the work.

19 2. The board of trustees shall also have the power to enter
20 into agreements with persons, firms for providing professional
21 services required of the board and the board shall adopt policies
22 for procuring the services of such professionals. The provisions
23 of sections 8.285 to 8.291, RSMo, shall be applicable to the
24 services of architects, engineers and land surveyors unless the
25 board of trustees adopts a formal procedure for the procurement

1 of such services.

2 204.660. The cost of any reorganized common sewer district
3 of acquiring, constructing, improving or extending a sewerage
4 system may be met:

5 (1) Through the expenditures by the common sewer district
6 of any funds available for that purpose, including temporary or
7 interim financing funds obtained through any federal or state
8 loan program or from a local lending institution;

9 (2) From any other funds which may be obtained pursuant to
10 any law of the state or of the United States or from any county
11 or municipality for that purpose; or

12 (3) From the proceeds of revenue bonds of the common sewer
13 district, payable solely from the revenues to be derived from the
14 operation of such sewerage system or from any combination of all
15 the methods of providing funds.

16 (4) From the proceeds of general obligation bonds of the
17 reorganized common sewer district, payable solely from voter
18 approved property taxes as provided for by law.

19 (5) From the proceeds of special obligation bonds of the
20 reorganized common sewer district, payable solely from special
21 fees or other revenues received by the district pledged for the
22 purposes of payment of such bonds.

23 (6) From the proceeds of user fees, charges, or other
24 imposition for facilities and services provided by the district
25 to its customers and users or the availability of services

1 provided to persons, users, and customers within the district or
2 who otherwise benefit from services provided by the district.

3 204.665. 1. A reorganized common sewer district may issue
4 general or special revenue bonds authorized by authority of a
5 resolution adopted by the board of trustees of the reorganized
6 common sewer district unless in addition thereto the decree or
7 amended decree of incorporation shall require any such bonds to
8 be approved by the voters of the district after election called
9 for that purpose. The resolution shall recite that an estimate
10 of the cost of the proposed acquisition, construction,
11 improvement, extension or other project has been made and shall
12 set out the estimated cost; it shall set out the amount of the
13 bonds proposed to be issued, their purposes, their dates,
14 denominations, rates of interest, times of payment, both of
15 principal and of interest, places of payment, and all other
16 details in connection with the bonds.

17 2. The bonds may be subject to such provision for
18 redemption prior to maturity, with or without premium, and at
19 such times and upon such conditions as may be provided by the
20 board of trustees of the common sewer district.

21 3. The bonds shall bear interest at a rate in accordance
22 with section 108.170, RSMo, and shall mature over a period not
23 exceeding thirty-five years from the date thereof.

24 4. The bonds may be payable to bearer, may be registered or
25 coupon bonds, and if payable to bearer may contain such

1 registration privileges as to either principal and interest, or
2 principal only, as may be provided in the resolution authorizing
3 the bonds.

4 5. The bonds and the coupons to be attached thereto, if
5 any, shall be signed in such manner and by such officers as may
6 be directed by resolution. Bonds signed by an officer who shall
7 hold the office at the time the bonds are signed shall be deemed
8 validly and effectually signed for all purposes, regardless of
9 whether or not any officer shall cease to hold his office prior
10 to the delivery of the bonds and regardless of whether or not any
11 officer shall have held or shall not have held such office on the
12 date ascribed to the bonds.

13 6. The bonds shall be sold in such manner and upon such
14 terms as the board of trustees of the reorganized common sewer
15 district shall determine, but the bonds shall not be sold for
16 less than ninety cents on the dollar nor shall they be sold at
17 such a price that the interest cost upon the actual proceeds of
18 the bonds from the date thereof to their maturity shall exceed a
19 rate in accordance with section 108.170, RSMo. The resolution
20 may provide that certain bonds authorized thereby shall be junior
21 or subordinate in any or all respects to other revenue bonds
22 authorized concurrently therewith or prior to or after such
23 bonds.

24 204.670. Any user fees or charges, connection fees, or
25 other charges levied by the reorganized common sewer district for

1 purposes of funding its general or special operations,
2 maintenance, or payment of bonded indebtedness or other
3 indebtedness shall be due at such time or times as specified by
4 the reorganized common sewer district, and shall, if not paid by
5 the due date, become delinquent and shall bear interest from the
6 date of delinquency until paid. In addition to and consistent
7 with any other provision of applicable law, if such fees or
8 charges or other amounts due become delinquent, they shall be a
9 lien upon the land charged, upon the reorganized common sewer
10 district filing with the recorder of deeds in the county where
11 the land is situated a notice of delinquency. The reorganized
12 common sewer district shall file with the recorder of deeds a
13 similar notice of satisfaction of debt when the delinquent
14 amounts, plus interest and any recording fees or attorneys' fees,
15 have been paid in full. The lien hereby created may be enforced
16 by foreclosure by power of sale hereby vested in the reorganized
17 common district if the reorganized common sewer district adopts
18 written rules for the exercise of power of sale consistent with
19 the provisions of sections 443.290 to 443.325, RSMo, which are
20 recorded in the land records of the office of the recorder of
21 deeds in each county in which the district is located; otherwise
22 such lien shall be enforced by suit in the circuit court having
23 jurisdiction against the property subject to the lien for
24 judicial foreclosure and sale by special execution; such suit may
25 include a request for judgment against the persons responsible

1 for payment of such delinquency as well as the person or persons
2 owning the property to which services were provided, if
3 different, including post-sale deficiency, and as a part of the
4 relief, may include award of the district's reasonable attorney's
5 fees, court costs and other expenses reasonably incurred by the
6 district for collection.

7 204.675. It shall be the mandatory duty of any reorganized
8 common sewer district which shall issue any general or special
9 revenue bonds pursuant to sections 204.600 to 204.700:

10 (1) To fix and maintain rates and make and collect charges
11 for the use and services of the system, for the benefit of which
12 revenue bonds were issued, sufficient to pay the cost of
13 maintenance and operation thereof;

14 (2) To pay the principal of and the interest on all revenue
15 bonds issued by the reorganized common sewer district chargeable
16 to the revenues of the system; and

17 (3) To provide funds ample to meet all valid and reasonable
18 requirements of the resolution by which the revenue bonds have
19 been issued.

20 The rates shall be from time to time revised so as fully to meet
21 the requirements of sections 204.600 to 204.700. As long as any
22 bond so issued or the interest thereon shall remain outstanding
23 and unpaid, rates and charges sufficient to meet the requirements
24 of this section shall be maintained and collected by the
25 reorganized common sewer district which issued the bonds.

1 204.680. 1. Whenever any reorganized common sewer district
2 authorizes and issues revenue bonds pursuant to sections 204.600
3 to 204.700, an amount sufficient for the purpose of the net
4 revenues of the sewerage system for the benefit of which the
5 bonds are issued shall, by operation of sections 204.600 to
6 204.700, be pledged to the payment of the principal of and the
7 interest on the bonds as the same shall mature and accrue.

8 2. The term "net revenues" shall be construed to mean all
9 income and revenues derived from the ownership and operation of
10 the system less the actual and necessary expenses of operation
11 and maintenance of the system.

12 3. It shall be the mandatory duty of the treasurer of the
13 reorganized common sewer district to provide for the prompt
14 payment of the principal and interest on any revenue bonds as
15 they mature and accrue.

16 204.685. 1. The resolution of the board of trustees of the
17 reorganized common sewer district authorizing the issuance of
18 revenue bonds pursuant to the authority of sections 204.600 to
19 204.700 may provide that periodic allocations of the revenues to
20 be derived from the operation of the system for the benefit of
21 which the bonds are issued shall be made into such accounts,
22 separate and apart from any other accounts of the district, as
23 shall be deemed to be advisable to assure the proper operation
24 and maintenance of the system and the prompt payment of the
25 indebtedness chargeable to the revenues of the system. The

1 accounts may include, but shall not be limited to:

2 (1) An account for the purpose of providing funds for the
3 operation and maintenance of the system;

4 (2) An account to provide funds for the payment of the
5 bonds as to principal and interest as they come due;

6 (3) An account to provide an adequate reserve for
7 depreciation, to be expended for replacements of the system;

8 (4) An account for the accumulation of a reserve to assure
9 the prompt payment of the bonds and the interest thereon whenever
10 and to the extent that other funds are not available for the
11 purpose;

12 (5) An account to provide funds for contingent expenses in
13 the operation of the system;

14 (6) An account to provide for the accumulation of funds for
15 the construction of extensions and improvements to the system;
16 and

17 (7) Such other accounts as may be desirable in the judgment
18 of the board of trustees.

19 2. The resolution may also establish such limitations as
20 may be expedient upon the issuance of additional bonds, payable
21 from the revenues of the system, or upon the rights of the
22 holders of such additional bonds. Such resolution may include
23 other agreements with the holders of the bonds or covenants or
24 restrictions necessary or desirable to safeguard the interests of
25 the bondholder and to secure the payment of the bonds and the

1 interest thereon.

2 204.690. For the purpose of refunding, extending and
3 unifying the whole or any part of any valid outstanding bonded
4 indebtedness payable from the revenues of a sewerage system, any
5 reorganized common sewer district may issue refunding bonds not
6 exceeding in amount the principal of the outstanding indebtedness
7 to be refunded and the accrued interest to the date of the
8 refunding bonds. The board of trustees of the reorganized common
9 sewer district shall provide for the payment of interest at not
10 to exceed the same rate and the principal of the refunding bonds
11 in the same manner and from the same source as was provided for
12 the payment of interest on and principal of the bonds to be
13 refunded.

14 204.695. The board of trustees of the reorganized common
15 sewer district may apply for and accept grants or funds, material
16 or labor, from the state and federal government, or any
17 departments thereof, in the construction of a sewerage system as
18 provided by sections 204.600 to 204.700, and may enter into such
19 agreements as may be required of the state or federal laws, or
20 the rules and regulations of any federal or state department, to
21 which the application is made, and where the assistance is
22 granted.

23 204.700. It is hereby made the duty of the circuit court,
24 the governing bodies of counties, all political subdivisions and
25 all assessors, sheriffs, collectors, treasurers and other

1 officials in the state of Missouri to do and perform all the acts
2 and to render all the services necessary to carry out the
3 purposes of sections 204.600 to 204.700.

4 204.705. Sections 204.705 to 204.755 shall be known and may
5 be cited as the "Sanitary Sewer Improvement Area Act", and the
6 following words and terms, as used in these sections, mean:

7 (1) "Acquire", the acquisition of property or interests in
8 property by purchase, gift, condemnation or other lawful means
9 and may include the acquisition of existing property and
10 improvements already owned by the district;

11 (2) "Assess" or "assessment", a unit of measure to allocate
12 the cost of an improvement among property or properties within a
13 sanitary sewer improvement area based upon an equitable method of
14 determining benefits to any such property resulting from an
15 improvement;

16 (3) "Consultant", engineers, architects, planners,
17 attorneys, financial advisors, accountants, investment bankers
18 and other persons deemed competent to advise and assist the
19 governing body of the district in planning and making
20 improvements;

21 (4) "Cost", all costs incurred in connection with an
22 improvement, including, but not limited to, costs incurred for
23 the preparation of preliminary reports, preparation of plans and
24 specifications, preparation and publication of notices of
25 hearings, resolutions, ordinances and other proceedings, fees and

1 expenses of consultants, interest accrued on borrowed money
2 during the period of construction, underwriting costs and other
3 costs incurred in connection with the issuance of bonds or notes,
4 establishment of reasonably required reserve funds for bonds or
5 notes, the cost of land, materials, labor and other lawful
6 expenses incurred in planning, acquiring and doing any
7 improvement, reasonable construction contingencies, and work done
8 or services performed by the district in the administration and
9 supervision of the improvement;

10 (5) "District" or "common sewer district", any public
11 sanitary sewer district or reorganized common sewer district
12 established and existing pursuant to this chapter or chapter 249,
13 RSMo, and any metropolitan sewer district organized pursuant to
14 the constitution of this state;

15 (6) "Improve", to construct, reconstruct, maintain,
16 restore, replace, renew, repair, install, equip, extend or to
17 otherwise perform any work which will provide a new sanitary
18 sewer facility or enhance, extend or restore the value or utility
19 of an existing sanitary sewer facility;

20 (7) "Improvement", any one or more sanitary sewer
21 facilities or improvements which confer a benefit on property
22 within a definable area and may include or consist of a
23 reimprovement of a prior improvement; improvements include, but
24 are not limited to, the following activities:

25 (a) To acquire property or interests in property when

1 necessary or desirable for any purpose authorized by sections
2 204.705 to 204.755;

3 (b) To improve sanitary sewers, wastewater treatment
4 plants, lagoons, septic tanks and systems and any and all other
5 sanitary sewer and waste water collection and treatments systems
6 of any type, whether located on improved or unimproved public or
7 private property, the general object and nature of which will
8 either preserve, maintain, improve or promote the general public
9 health, safety and welfare, or the environment, regardless of
10 technology used;

11 (8) "Sanitary sewer improvement area", an area of a
12 district with defined limits and boundaries which is created by
13 petition pursuant to sections 204.705 to 204.755 and which is
14 benefited by an improvement and subject to assessments against
15 the real property therein for the cost of the improvement;

16 (9) "User fee", a fee established and imposed by a district
17 for payment of an assessment in periodic installments to pay for
18 improvements made in a sanitary sewer improvement area which
19 benefit the property within such area that is subject to the
20 assessment.

21 204.710. As an alternative to all other methods provided by
22 law or charter, the board of trustees of any sewer district or
23 reorganized sewer district organized and operated pursuant to
24 this chapter or chapter 249, RSMo, or any metropolitan sewer
25 district organized pursuant to the constitution of this state,

1 may make, or cause to be made, improvements which confer a
2 benefit upon property within a sanitary sewer improvement area
3 pursuant to sections 204.705 to 204.755. The board of trustees
4 of such district may incur indebtedness and issue temporary notes
5 and general or special revenue bonds pursuant to sections 204.705
6 to 204.755 to pay for all or part of the cost of such
7 improvements. An improvement may be combined with one or more
8 other improvements for the purpose of issuing a single series of
9 general or special revenue bonds to pay all or part of the cost
10 of said area's improvements, but separate funds or accounts shall
11 be established within the records of the district for each
12 improvement project as provided in sections 204.705 to 204.755.
13 Such district shall make assessments and may impose user fees on
14 the property deemed by the board of trustees to be benefited by
15 each such improvement project pursuant to in addition to any
16 other fees or charges imposed by the district for provision of
17 services or payment of debt. The district shall use the moneys
18 collected from such assessments and user fees to reimburse the
19 district for all amounts paid or to be paid by it as principal of
20 and interest on its temporary notes and general or special
21 revenue bonds issued for such improvements.

22 204.715. 1. To establish a sanitary sewer improvement
23 area, the governing body of the sewer district shall comply with
24 the following procedure: the governing body of the district may
25 create a sanitary sewer improvement area when a proper petition

1 has been signed by four-sevenths of the owners of record within
2 such proposed area. The petition, in order to become effective,
3 shall be filed with the district. A proper petition for the
4 creation of a sanitary sewer improvement area shall set forth the
5 project name for the proposed improvement, the general nature of
6 the proposed improvement, the estimated cost of such improvement,
7 the boundaries of the proposed sanitary sewer subdistrict, the
8 proposed method or methods of financing the project including the
9 estimated amount of and method for imposing user fees against the
10 real property within the district to pay for the cost of the
11 improvements and any bonds issued therefor, a notice that the
12 names of the signers may not be withdrawn later than seven days
13 after the petition is filed with the district, and a notice that
14 the final cost of such improvement and the amount of revenue
15 bonds issued therefor shall not exceed the estimated cost of such
16 improvement, as stated in such petition, by more than twenty-five
17 percent.

18 2. Upon the filing of a proper petition with the district,
19 the governing body may by resolution or ordinance determine the
20 advisability of the improvement and may order that the area be
21 established and that preliminary plans and specifications for the
22 improvement be made. Such resolution or ordinance shall state
23 and make findings as to the project name for the proposed
24 improvement, the nature of the improvement, the estimated cost of
25 such improvement, the boundaries of the sanitary sewer

1 improvement area, the proposed method or methods of imposing
2 assessments and, if known, proposed estimated user fees within
3 the district, and shall also state that the final cost of such
4 improvement within the sanitary sewer improvement area and the
5 amount of general or special revenue bonds issued therefor shall
6 not, without a new petition, exceed the estimated cost of such
7 improvement by more than twenty-five percent.

8 3. The boundaries of the proposed area shall be described
9 by metes and bounds, streets or other sufficiently specific
10 description.

11 204.720. The portion of the cost of any improvement to be
12 assessed or imposed against the real property in a sanitary sewer
13 improvement area shall be apportioned against such property in
14 accordance with the benefits accruing thereto by reason of such
15 improvement. Subject to the provisions of the Farmland
16 Protection Act, sections 262.800 to 262.810, RSMo, the cost may
17 be assessed equally by lot or tract, against property within the
18 area, or by any other reasonable assessment plan determined by
19 the board of trustees of the district which results in imposing
20 substantially equal burdens or share of the cost upon property
21 similarly benefited. The board of trustees of the district may
22 from time to time determine and establish by ordinance or
23 resolution reasonable general classifications and formula for the
24 methods of assessing or determining the benefits.

25 204.725. 1. After the board of trustees has made the

1 findings specified in sections 204.705 to 204.755 and plans and
2 specifications for the proposed improvements have been prepared,
3 the board of trustees shall by ordinance or resolution order
4 assessments to be made against each parcel of real property
5 deemed to be benefited by an improvement based on the revised
6 estimated cost of the improvement or, if available, the final
7 cost thereof, and shall order a proposed assessment roll to be
8 prepared.

9 2. The plans and specifications for the improvement and the
10 proposed assessment roll shall be filed with the district and
11 shall be open for public inspection. Such district shall
12 thereupon, at the direction of the board of trustees, publish
13 notice that the board of trustees will conduct a hearing to
14 consider the proposed improvement and proposed assessments. Such
15 notice shall be published in a newspaper of general circulation
16 at least once not more than twenty days before the hearing and
17 shall state the project name for the improvement, the date, time
18 and place of such hearing, the general nature of the improvement,
19 the revised estimated cost or, if available, the final cost of
20 the improvement, the boundaries of the sanitary sewer improvement
21 area to be assessed, and that written or oral objections will be
22 considered at the hearing. At the same time, the district shall
23 mail to the owners of record of the real property made liable to
24 pay the assessments, at their last known post office address, a
25 notice of the hearing and a statement of the cost proposed to be

1 assessed against the real property so owned and assessed. The
2 failure of any owner to receive such notice shall not invalidate
3 the proceedings.

4 204.730. 1. At the hearing to consider the proposed
5 improvements and assessments, the board of trustees or their
6 designated representative shall hear and pass upon all objections
7 to the proposed improvements and proposed assessments, if any,
8 and may amend the proposed improvements, and the plans and
9 specifications therefor, or assessments as to any property, and
10 thereupon by ordinance or resolution the board of trustees shall
11 order that the improvement be made and direct that financing for
12 the cost thereof be obtained as provided in sections 204.705 to
13 204.755.

14 2. After the improvement has been completed in accordance
15 with the plans and specifications therefor, the board of trustees
16 shall compute the final costs of the improvement and apportion
17 the costs among the property benefited by such improvement in
18 such equitable manner as the board of trustees shall determine,
19 charging each tract, lot or parcel of property with its
20 proportionate share of the costs, and by resolution or ordinance,
21 assess the final cost of the improvement, or the amount of
22 general or special revenue bonds issued or to be issued to pay
23 for the improvement, as special assessments against the property
24 described in the assessment roll.

25 3. After the passage or adoption of the ordinance or

1 resolution assessing the special assessments, the district shall
2 mail a notice to each property owner within the district which
3 sets forth a description of each tract, lot or parcel of real
4 property to be assessed which is owned by such owner, the
5 assessment assigned to such property, and a statement that the
6 property owner may pay such assessment in full, together with
7 interest accrued thereon from the effective date of such
8 ordinance or resolution, on or before a specified date determined
9 by the effective date of the ordinance or resolution, or may pay
10 such assessment in the form of user fees in periodic installments
11 as provided in subsection 4 of this section. Notice of each
12 assessment and imposition of the assessment lien together with a
13 legal description for each property assessed within the area
14 shall be filed with the recorder of deeds upon the effective date
15 of the ordinance or resolution, but failure to timely record any
16 such notice shall not affect the validity of the assessments or
17 liens thereunder. The district shall record written notice of
18 release of lien whenever an assessment is paid in full; the cost
19 of recording assessment notices and release of liens shall be
20 included in the assessment.

21 4. The special assessments shall be assessed upon the
22 property within the area and those not paid in full as provided
23 in subsection 3 of this section shall be payable in the form of
24 user fees payable in periodic and substantially equal
25 installments as determined by the district for a duration

1 prescribed by the resolution or ordinance establishing the
2 special assessments. All assessments shall bear interest at such
3 rate as the board of trustees determines, not to exceed the rate
4 permitted for bonds by section 108.170, RSMo. Interest on the
5 assessment between the effective date of the ordinance or
6 resolution assessing the special assessments and the date the
7 first installment of a user fee is payable shall be added to the
8 first installment or prorated among all scheduled installments.

9 5. Assessments not paid in full shall be collected and paid
10 over to the district in the form of user fees in the same manner
11 as other district fees and charges are collected and paid, or by
12 any other reasonable method determined by the district.

13 204.735. No suit to set aside the assessments made pursuant
14 to sections 204.705 to 204.755 or to otherwise question the
15 validity of the proceedings relating thereto shall be brought
16 after the expiration of ninety days from the date of mailing of
17 notice to the last known owners of record of the assessments
18 required by sections 204.705 to 204.755.

19 204.740. 1. To correct omissions, errors or mistakes in
20 the original assessment which relate to the total cost of an
21 improvement, the board of trustees of the district may, without a
22 notice or hearing, make supplemental or additional assessments on
23 property within a sanitary sewer improvement area, except that
24 such supplemental or additional assessments shall not, without a
25 new petition as provided in sections 204.705 to 204.755, exceed

1 twenty-five percent of the estimated cost of the improvement as
2 set forth in the petition pursuant to the provisions of sections
3 204.705 to 204.755.

4 2. When an assessment is, for any reason whatever, set
5 aside by a court of competent jurisdiction as to any property, or
6 in the event the board of trustees finds that the assessment or
7 any part thereof is excessive or determines on advice of counsel
8 in writing that it is or may be invalid for any reason, the board
9 of trustees may, upon notice and hearing as provided for the
10 original assessment, make a reassessment or a new assessment as
11 to such property.

12 204.745. An assessment authorized pursuant to sections
13 204.705 to 204.755, once determined and imposed, shall constitute
14 a lien against such property until paid in full and shall not be
15 affected by the existence or enforcement of any other liens or
16 encumbrances, nor shall enforcement of an assessment lien have
17 any effect on the validity or enforcement of any tax lien or lien
18 established by mortgage or deed of trust. An assessment lien
19 becomes delinquent when an assessment is not paid in full as
20 prescribed by sections 204.705 to 204.755 or when one or more
21 periodic installments imposed by the district for an assessment
22 remain unpaid for a period of thirty days or more after notice of
23 delinquency in payment is mailed to the last known owners of the
24 property subject to assessment by regular United States mail and
25 by certified mail, return receipt requested, at their last known

1 address provided by such owners to the district and to the
2 occupant of property which is subject to assessment, if different
3 from that of the owners. In the event any such user fee remains
4 unpaid after thirty days of the mailing of any such notice, and
5 in addition to any other remedy the district may have by statute
6 or duly enacted regulation for the collection of delinquent
7 amounts owed to the district, the district shall be entitled to
8 petition the circuit court having jurisdiction to foreclose upon
9 the assessment lien by special execution sale of the property
10 subject to the assessment for the unpaid assessment plus
11 reasonable attorney's fees, court costs and other reasonable
12 costs incurred by the district in collection. In any such suit,
13 the district shall name all parties appearing of record to have
14 or claim an interest in the property subject to the unpaid
15 assessment and shall file a notice of lis pendens in connection
16 with said action; in addition, the district may obtain a judgment
17 against last known owners of the property for any deficiency in
18 payment of the assessment and costs and fees made a part of the
19 court's judgment.

20 204.750. After an improvement has been authorized pursuant
21 to sections 204.705 to 204.755, the board of trustees of the
22 district may issue temporary notes of the district to pay the
23 costs of such improvement in an amount not to exceed the
24 estimated cost of such improvement, and such temporary notes may
25 be issued in anticipation of issuance of general or special

1 revenue bonds of the district. The district may participate in
2 any governmentally sponsored bond pooling program or other bond
3 program. Bonds may be issued and made payable from general
4 revenues of the area or district, or from special revenues from
5 designated properties within an area.

6 204.755. A separate fund or account shall be created by the
7 district for each improvement project and each such fund or
8 account shall be identified by a suitable title. The proceeds
9 from the sale of bonds and temporary notes and any other moneys
10 appropriated thereto by the board of trustees of the district
11 shall be credited to such funds or accounts. Such funds or
12 accounts shall be used solely to pay the costs incurred in making
13 each respective improvement. Upon completion of an improvement,
14 the balance remaining in the fund or account established for such
15 improvement, if any, may be held as contingent funds for future
16 improvements or may be credited against the amount of the
17 original assessment of each parcel of property, on a pro rata
18 basis based on the amount of the original assessment, and with
19 respect to property owners that have prepaid their assessments in
20 accordance with sections 204.705 to 204.755, the amount of each
21 such credit shall be refunded to the appropriate property owner,
22 and with respect to all other property owners, the amount of each
23 such credit shall be transferred and credited to the district
24 bond and interest fund to be used solely to pay the principal of
25 and interest on the bonds or temporary notes and the assessments

1 shall be reduced accordingly by the amount of such credit.

2 204.760. Any public sanitary sewer district or reorganized
3 sewer district organized and operated pursuant to this chapter or
4 chapter 249, RSMo, and any metropolitan sewer district organized
5 pursuant to the constitution of this state, may enter into a
6 cooperative agreement with a city or county for the purpose of
7 constructing sanitary sewer system improvements pursuant to the
8 provisions of the neighborhood improvement district act, sections
9 67.453 to 67.475, RSMo. Any such cooperative agreement, if
10 approved by the governing bodies of the district and city or
11 county, may include provisions for joint administration of
12 projects, for the issuance of temporary notes and general
13 obligation bonds by district, city or county, separately or
14 jointly, and for the payment of such bonds by any source of funds
15 or user fees in addition to funds from special assessments as
16 provided for in sections 67.453 to 67.475, RSMo, and general ad
17 valorem taxes, so long as all terms, conditions and covenants of
18 any applicable bond indenture are complied with and so long as
19 said notes and bonds are issued in compliance with general
20 applicable law.

21 260.219. No local government or political subdivision shall
22 provide commercial solid waste collection services in
23 unincorporated areas outside its boundaries unless no other
24 service is available. This section shall not include hazardous
25 waste, recovered materials, or solid waste that is processed at a

1 resource recovery facility or material recovery facility before
2 it is transferred to a sanitary landfill or transfer station.

3 260.273. 1. Any person purchasing a new tire may present
4 to the seller the used tire or remains of such used tire for
5 which the new tire purchased is to replace.

6 2. A fee for each new tire sold at retail shall be imposed
7 on any person engaging in the business of making retail sales of
8 new tires within this state. The fee shall be charged by the
9 retailer to the person who purchases a tire for use and not for
10 resale. Such fee shall be imposed at the rate of fifty cents for
11 each new tire sold. Such fee shall be added to the total cost to
12 the purchaser at retail after all applicable sales taxes on the
13 tires have been computed. The fee imposed, less six percent of
14 fees collected, which shall be retained by the tire retailer as
15 collection costs, shall be paid to the department of revenue in
16 the form and manner required by the department of revenue and
17 shall include the total number of new tires sold during the
18 preceding month. The department of revenue shall promulgate
19 rules and regulations necessary to administer the fee collection
20 and enforcement. The terms "sold at retail" and "retail sales"
21 do not include the sale of new tires to a person solely for the
22 purpose of resale, if the subsequent retail sale in this state is
23 to the ultimate consumer and is subject to the fee.

24 3. The department of revenue shall administer, collect and
25 enforce the fee authorized pursuant to this section pursuant to

1 the same procedures used in the administration, collection and
2 enforcement of the general state sales and use tax imposed
3 pursuant to chapter 144, RSMo, except as provided in this
4 section. The proceeds of the new tire fee, less four percent of
5 the proceeds, which shall be retained by the department of
6 revenue as collection costs, shall be transferred by the
7 department of revenue into an appropriate subaccount of the solid
8 waste management fund, created pursuant to section 260.330.

9 4. Up to five percent of the revenue available may be
10 allocated, upon appropriation, to the department of natural
11 resources to be used cooperatively with the department of
12 elementary and secondary education for the purposes of developing
13 educational programs and curriculum pursuant to section 260.342.

14 5. Up to twenty-five percent of the moneys received
15 pursuant to this section may, upon appropriation, be used to
16 administer the programs imposed by this section. Up to five and
17 one-half percent of the moneys received under this section may,
18 upon appropriation, be used for the grants authorized in
19 subdivision (2) of subsection 6 of this section and authorized in
20 section 260.274. All remaining moneys shall be allocated, upon
21 appropriation, for the projects authorized in section 260.276.

22 6. The department shall promulgate, by rule, a statewide
23 plan for the use of moneys received pursuant to this section to
24 accomplish the following:

25 (1) Removal of waste tires from illegal tire dumps;

1 (2) Providing grants to persons that will use products
2 derived from waste tires, or used waste tires as a fuel or fuel
3 supplement; and

4 (3) Resource recovery activities conducted by the
5 department pursuant to section 260.276.

6 7. The fee imposed in subsection 2 of this section shall
7 terminate January 1, 2004.

8 319.125. 1. The department may deny or invalidate a
9 certificate of registration issued under sections 319.120 and
10 319.123 if the department finds, after notice and a hearing
11 pursuant to chapter [644] 260, RSMo, that the owner has:

12 (1) Fraudulently or deceptively registered or attempted to
13 register a tank; or

14 (2) Failed at any time to comply with any provision or
15 requirement of sections 319.100 to 319.137 or any rules and
16 regulations adopted by the department in accordance with the
17 provisions of sections 319.100 to 319.137.

18 2. Upon the action of the department to invalidate or
19 refuse to issue a certificate, the department shall advise the
20 applicant of his right to have a hearing before the [clean water]
21 Missouri hazardous waste management commission. The hearing
22 shall be conducted in accordance with the procedures established
23 in chapter [644] 260, RSMo.

24 3. When the department finds that a release from an
25 underground storage tank presents, or is likely to present, an

1 immediate threat to public health or safety or to the
2 environment, it shall order correction of the problem, order
3 cleanup or institute clean-up operations pursuant to the
4 provisions of sections 260.500 to 260.550, RSMo.

5 4. If the owner or operator fails to perform or improperly
6 performs any action required by the department to abate or
7 eliminate an immediate threat to public health or safety or to
8 the environment, the department or an authorized agent of the
9 department may take any and all necessary action to abate or
10 eliminate such threat. In addition to any other remedy or
11 penalty provided by sections 319.100 to 319.137 or any other law,
12 the owner or operator shall be held strictly liable for the
13 reasonable costs incurred by the department in taking any such
14 action.

15 5. The denial of reregistration or the revocation of
16 registration of any person participating in the underground
17 storage tank insurance fund shall, upon completion of any appeal,
18 terminate participation in the fund.

19 319.127. 1. It is unlawful for any owner or operator to
20 cause or permit any violations of sections 319.100 to 319.137, or
21 any standard, rule or regulation, order or permit term or
22 condition adopted or issued hereunder. Except as provided in
23 this section, whenever on the basis of any information, the
24 department determines that any person is in such violation, the
25 department may issue an order requiring compliance within a

1 reasonable specified time period, pursuant to chapter [644] 260,
2 RSMo, or the department may commence a civil action in a court of
3 competent jurisdiction in which the violation occurred for
4 appropriate relief, including a temporary or permanent
5 injunction.

6 2. If an owner or operator fails to comply with an order
7 under this section within the time specified, the department may
8 commence a civil action in a court of competent jurisdiction for
9 injunctive relief to prevent any such violation or further
10 violation or for the assessment of a civil penalty not to exceed
11 ten thousand dollars for each day, or part thereof, the violation
12 occurred or continues to occur, or both, as the court deems
13 proper. A civil monetary penalty under this section shall not be
14 assessed for a violation where an administrative penalty was
15 assessed under section 319.139. The department may request
16 either the attorney general or a prosecuting attorney to bring
17 any action authorized in this section in the name of the people
18 of the state of Missouri. Any offer of settlement to resolve a
19 civil penalty under this section shall be in writing, shall state
20 that an action for imposition of a civil penalty may be initiated
21 by the attorney general or a prosecuting attorney representing
22 the department under authority of this section, and shall
23 identify any dollar amount as an offer of settlement which shall
24 be negotiated in good faith through conference, conciliation and
25 persuasion.

1 3. Any penalty recovered pursuant to the provisions of this
2 section shall be handled in accordance with section 7 of article
3 IX of the state constitution.

4 4. If the department alleges a violation of law or
5 regulation of sections 319.100 to 319.139, and mandates
6 compliance with such law or regulation by a person or entity, the
7 department shall provide the person or entity responsible for
8 compliance with such law or regulation with written criteria
9 detailing exactly what action is necessary for such person or
10 entity to comply with the law or regulation. The criteria shall
11 include any time restrictions imposed by the department and shall
12 be prima facie evidence of the action necessary for compliance
13 with the law or regulation. Any person or entity meeting the
14 criteria shall be deemed to be in full compliance with the
15 requests of the department and evidence of compliance shall
16 constitute an affirmative defense in any action brought by or on
17 behalf of the department under the law or regulation. The
18 criteria may not be amended by the department once issued to the
19 person or entity responsible for compliance with such law or
20 department regulation for three years from the date of issuance
21 unless mandated by a change in state or federal law.

22 319.137. 1. Rules and regulations promulgated by the
23 United States Environmental Protection Agency under subtitle I of
24 the federal Resource Conservation Recovery Act of 1976 (P.L.
25 94-580), as amended, may be adopted by the department by

1 reference. The department may adopt rules and regulations that
2 are more stringent than those issued by the United States
3 Environmental Protection Agency if such rules or regulations are
4 necessary to protect human health or the environment. Rules and
5 regulations promulgated under sections 319.100 to 319.139 shall
6 be submitted to and reviewed by the advisory committee
7 established by subsection 2 of section 319.131 prior to
8 publication. Any such rule shall be adopted only after due
9 notice and public hearing in accordance with the provisions of
10 this section, chapter 260, RSMo, and chapter 536, RSMo[, and
11 chapter 644, RSMo].

12 2. No rule or portion of a rule promulgated under the
13 authority of sections 319.100 to 319.139 shall become effective
14 until it has been approved by the joint committee on
15 administrative rules in accordance with the procedures provided
16 herein, and the delegation of the legislative authority to enact
17 law by the adoption of such rules is dependent upon the power of
18 the joint committee on administrative rules to review and suspend
19 rules pending ratification by the senate and the house of
20 representatives as provided herein.

21 3. Upon filing any proposed rule with the secretary of
22 state, the filing agency shall concurrently submit such proposed
23 rule to the committee, which may hold hearings upon any proposed
24 rule or portion thereof at any time.

25 4. A final order of rulemaking shall not be filed with the

1 secretary of state until thirty days after such final order of
2 rulemaking has been received by the committee. The committee may
3 hold one or more hearings upon such final order of rulemaking
4 during the thirty-day period. If the committee does not
5 disapprove such order of rulemaking within the thirty-day period,
6 the filing agency may file such order of rulemaking with the
7 secretary of state and the order of rulemaking shall be deemed
8 approved.

9 5. The committee may, by majority vote of the members,
10 suspend the order of rulemaking or portion thereof by action
11 taken prior to the filing of the final order of rulemaking only
12 for one or more of the following grounds:

13 (1) An absence of statutory authority for the proposed
14 rule;

15 (2) An emergency relating to public health, safety or
16 welfare;

17 (3) The proposed rule is in conflict with state law;

18 (4) A substantial change in circumstance since enactment of
19 the law upon which the proposed rule is based;

20 (5) That the rule is arbitrary and capricious.

21 6. If the committee disapproves any rule or portion
22 thereof, the filing agency shall not file such disapproved
23 portion of any rule with the secretary of state and the secretary
24 of state shall not publish in the Missouri Register any final
25 order of rulemaking containing the disapproved portion.

1 7. If the committee disapproves any rule or portion
2 thereof, the committee shall report its findings to the senate
3 and the house of representatives. No rule or portion thereof
4 disapproved by the committee shall take effect so long as the
5 senate and the house of representatives ratify the act of the
6 joint committee by resolution adopted in each house within thirty
7 legislative days after such rule or portion thereof has been
8 disapproved by the joint committee.

9 8. Upon adoption of a rule as provided herein, any such
10 rule or portion thereof may be suspended or revoked by the
11 general assembly either by bill or, pursuant to section 8,
12 article IV of the constitution, by concurrent resolution upon
13 recommendation of the joint committee on administrative rules.
14 The committee shall be authorized to hold hearings and make
15 recommendations pursuant to the provisions of section 536.037,
16 RSMo. The secretary of state shall publish in the Missouri
17 Register, as soon as practicable, notice of the suspension or
18 revocation.

19 319.139. 1. In addition to any other remedy provided by
20 law, upon a determination by the director that a provision of
21 sections 319.100 to 319.137 or a standard, limitation, order,
22 rule or regulation promulgated pursuant thereto, or a term or
23 condition of any permit has been violated, the director may issue
24 an order assessing an administrative penalty upon the violator
25 under this section. An administrative penalty shall not be

1 imposed until the director has sought to resolve the violation
2 through conference, conciliation or persuasion and shall not be
3 imposed for minor violations of sections 319.100 to 319.137 or
4 minor violations of any standard, limitation, order, rule or
5 regulation promulgated pursuant to sections 319.100 to 319.137 or
6 minor violations of any term or condition of a permit issued
7 pursuant to sections 319.100 to 319.137. If the violation is
8 resolved through conference, conciliation and persuasion, no
9 administrative penalty shall be assessed unless the violation has
10 caused, or has the potential to cause, a risk to human health or
11 to the environment, or has caused or has potential to cause
12 pollution, or was knowingly committed, or is defined by the
13 United States Environmental Protection Agency as other than
14 minor. Any order assessing an administrative penalty shall state
15 that an administrative penalty is being assessed under this
16 section and that the person subject to the penalty may appeal as
17 provided by this section. Any such order that fails to state the
18 statute under which the penalty is being sought, the manner of
19 collection or rights of appeal shall result in the state's
20 waiving any right to collection of the penalty.

21 2. The [clean water] Missouri hazardous waste management
22 commission shall promulgate rules and regulations for the
23 assessment of administrative penalties. The amount of the
24 administrative penalty assessed per day of violation for each
25 violation under this section shall not exceed the amount of the

1 civil penalty specified in section 319.127. Such rules shall
2 reflect the criteria used for the administrative penalty matrix
3 as provided for in the Resource Conservation and Recovery Act, 42
4 U.S.C. 6928(a), Section 3008(a), and the harm or potential harm
5 which the violation causes, or may cause, the violator's previous
6 compliance record, and any other factors which the [clean water]
7 Missouri hazardous waste management commission may reasonably
8 deem relevant. An administrative penalty shall be paid within
9 sixty days from the date of issuance of the order assessing the
10 penalty. Any person subject to an administrative penalty may
11 appeal to the commission as provided in section [644.056]
12 260.400, RSMo. An appeal will stay the due date of such
13 administrative penalty until the appeal is resolved. Any person
14 who fails to pay an administrative penalty by the final due date
15 shall be liable to the state for a surcharge of fifteen percent
16 of the penalty plus ten percent per annum on any amounts owed.
17 Any administrative penalty paid pursuant to this section shall be
18 handled in accordance with section 7 of article IX of the state
19 constitution. An action may be brought in the appropriate
20 circuit court to collect any unpaid administrative penalty, and
21 for attorney's fees and costs incurred directly in the collection
22 thereof.

23 3. An administrative penalty shall not be increased in
24 those instances where department action, or failure to act, has
25 caused a continuation of the violation that was a basis for the

1 penalty. Any administrative penalty must be assessed within two
2 years following the department's initial discovery of such
3 alleged violation, or from the date the department in the
4 exercise of ordinary diligence should have discovered such
5 alleged violation.

6 4. Any final order imposing an administrative penalty is
7 subject to judicial review upon the filing of a petition pursuant
8 to section 536.100, RSMo, by any person subject to the
9 administrative penalty.

10 5. The state may elect to assess an administrative penalty,
11 or, in lieu thereof, to request that the attorney general or
12 prosecutor file an appropriate legal action seeking a civil
13 penalty in the appropriate circuit court.

14 393.015. 1. Notwithstanding any other provision of law to
15 the contrary, any sewer corporation, municipality or sewer
16 district established under the provisions of chapter 249 or 250,
17 RSMo, or sections 204.250 to 204.470, RSMo, or any sewer district
18 created and organized pursuant to constitutional authority, may
19 contract with any water corporation[, municipality, or public
20 water supply district established under chapter 247, RSMo,] to
21 terminate water services to any customer premises for nonpayment
22 of a sewer bill. No such termination of water service may occur
23 until thirty days after the sewer corporation, municipality or
24 statutory sewer district or sewer district created and organized
25 pursuant to constitutional authority sends a written notice to

1 the customer by certified mail, except that if the water
2 corporation[, municipality or public water supply district] is
3 performing a combined water and sewer billing service for the
4 sewer corporation, municipality or sewer district, no additional
5 notice or any additional waiting period shall be required other
6 than the notice and waiting period already used by the water
7 corporation[, municipality or public water supply district] to
8 disconnect water service for nonpayment of the water bill.

9 Acting pursuant to a contract, the water corporation[,
10 municipality or public water supply district] shall discontinue
11 water service until such time as the sewer charges and all
12 related costs of termination and reestablishment of sewer and
13 water services are paid by the customer.

14 2. A water corporation[, municipality, or public water
15 supply district] acting pursuant to a contract with a sewer
16 corporation, municipality or sewer district as provided in
17 subsection 1 of this section shall not be liable for damages
18 related to termination of water services unless such damage is
19 caused by the negligence of such water corporation,
20 [municipality, or public water supply district,] in which case
21 the water corporation[, municipality, or public water supply
22 district] shall be indemnified by the sewer corporation,
23 municipality or sewer district. Unless otherwise specified in
24 the contract, all costs related to the termination and
25 reestablishment of services by the water corporation[,

1 municipality or public water supply district] shall be reimbursed
2 by the sewer corporation, municipality, sewer district or sewer
3 district created and organized pursuant to constitutional
4 authority.

5 393.018. 1. Notwithstanding any other provision of law to
6 the contrary, any municipality providing water, or any water
7 district established under the provisions of chapter 247, RSMo,
8 shall upon request of any municipality providing sewer service or
9 public sewer district established under the provisions of chapter
10 249 or 250, RSMo, or sections 204.250 to 204.470, RSMo, contract
11 with such municipality or public sewer district to terminate
12 water services to any customer premises for nonpayment of a sewer
13 bill or establish combined billing for water and sewer services
14 to any customer premises prior to May 13, 2005.

15 2. In the event that the aforesaid municipality, or water
16 district and the aforesaid municipality or sewer district are
17 unable to reach an agreement as herein provided, then the
18 municipality or sewer district making the written request, may
19 file with the circuit court in which the municipality, or water
20 district was incorporated or formed, a petition requesting that
21 three commissioners draft such an agreement.

22 3. Upon the filing of such petition, the party filing the
23 petition shall include therein the name of one of the
24 commissioners to be appointed by the court; the other party shall
25 appoint one commissioner within thirty days of the service of the

1 petition upon the second party. If the second party fails to
2 appoint a commissioner within such a time period, the court shall
3 appoint a commissioner on behalf of the second party within
4 forty-five days of service of the petition upon the second party.
5 Such two named commissioners shall agree to appoint a third
6 commissioner within thirty days of the appointment of the second
7 commissioner, but in the event that they fail to agree, the court
8 shall appoint a third disinterested commissioner within forty-
9 five days after appointment of the second commissioner.

10 4. The commissioners shall draft an agreement between the
11 municipality or water district and the municipality or sewer
12 district meeting the requirements set forth herein. Before
13 drafting such agreement, the parties shall be given an
14 opportunity to present evidence and information pertaining to
15 such agreement at a hearing to be held by the commissioners.
16 Each party shall receive fifteen days written notice of said
17 hearing, however, at any time prior to the date of the hearing,
18 either party may request an automatic thirty day extension by
19 delivering notification in writing to the opposing party and the
20 commissioners. The commissioners shall consider such evidence
21 and information submitted to them and prepare such agreement as
22 provided herein. The hearing may be continued from time to time
23 at the discretion of the commissioners, until such time as both
24 parties have had an opportunity to present evidence therein.
25 Said agreement shall be submitted to the court within forty-five

1 days of the completion of the hearing. The costs of said action
2 shall be paid by the petitioning party, who shall also pay the
3 reasonable costs of the commissioners, if any, as determined by
4 the court.

5 5. If the court finds that such agreement meets the
6 requirements of this section, then the court shall enter its
7 judgment approving such agreement and order it to become
8 effective not later than sixty days after the date of such
9 judgment. Thereafter the parties shall abide by such agreement.
10 If either party fails to do so, the other party may file an
11 action to compel compliance. Venue shall be in the court issuing
12 the judgment.

13 6. The judgment and order of the court shall be subject to
14 an appeal as provided by law.

15 7. No such termination of water service may occur until
16 thirty days after the municipality or sewer district sends a
17 written notice to the customer, except that if the municipality
18 or water district is performing a combined water and sewer
19 billing service for the municipality or sewer district, no
20 additional notice or any additional waiting period shall be
21 required other than the notice and the waiting period already
22 used by the municipality or water district to disconnect water
23 service for the nonpayment of the water bill. Acting pursuant to
24 a contract, the municipality or public water supply district
25 shall discontinue water service until such time as the customer

1 pays the sewer charges and all related costs of termination and
2 reestablishment of sewer and water services in full or payment
3 arrangements have been accepted and approved by the municipality
4 or sewer district.

5 8. Any municipality or water district disconnecting water
6 services to collect a delinquent sewer charge at the written
7 request of a municipality or sewer district pursuant to an
8 agreement made under this section shall be absolutely immune from
9 civil liability for damages or costs resulting from disconnection
10 in accordance with the terms and conditions of such agreement.

11 9. Unless otherwise specified in the contract, all costs
12 related to the termination and re-establishment of water service
13 shall be reimbursed by the municipality or sewer district. Such
14 reimbursement may include, but not be limited to, lost revenue
15 and other reasonable expenses incurred as a result of such
16 termination of water service. All costs paid the municipality or
17 sewer district pursuant to the provisions of this section shall
18 be charged to and paid by the customer whose service was
19 terminated.

20 393.1000. As used in sections 393.1000 to 393.1006, the
21 following terms mean:

22 (1) "Appropriate pretax revenues", the revenues necessary
23 to produce net operating income equal to:

24 (a) The water corporation's weighted cost of capital
25 multiplied by the net original cost of eligible infrastructure

1 system replacements, including recognition of accumulated
2 depreciation and deferred income taxes associated with eligible
3 infrastructure system replacements which are included in a
4 currently effective ISRS; and

5 (b) Recover state, federal, and local income or excise
6 taxes applicable to such income; and

7 (c) Recover all other ISRS costs;

8 (2) "Commission", the Missouri public service commission;

9 (3) "Eligible infrastructure system replacements", water
10 utility plant projects, that:

11 (a) Replace or extend the useful life of existing
12 infrastructure that is less than sixteen inches in diameter;

13 (b) Are in service and used and useful;

14 (c) Do not increase revenues by directly connecting the
15 infrastructure replacement to new customers; and

16 (d) Were not included in the water corporation's rate base
17 in its most recent general rate case;

18 (4) "ISRS", infrastructure system replacement surcharge;

19 (5) "ISRS costs", depreciation expenses, and property taxes
20 that will be due within twelve months of the ISRS filing;

21 (6) "ISRS revenues", revenues produced through an ISRS,
22 exclusive of revenues from all other rates and charges;

23 (7) "Water corporation", every corporation, company,
24 association, joint stock company or association, partnership, and
25 person, their lessees, trustees, or receivers appointed by any

1 court whatsoever, owning, operating, controlling, or managing any
2 plant or property, dam or water supply, canal, or power station,
3 distributing or selling for distribution, or selling or supplying
4 for gain any water to more than ten thousand customers which the
5 public service commission has jurisdictional authority pursuant
6 to chapter 386, RSMo;

7 (8) "Water utility plant projects", may consist only of the
8 following:

9 (a) Mains, and associated valves and hydrants, installed as
10 replacements for existing facilities that have worn out or are in
11 deteriorated condition;

12 (b) Main cleaning and relining projects; and

13 (c) Facilities relocations required due to construction or
14 improvement of a highway, road, street, public way, or other
15 public work by or on behalf of the United States, this state, a
16 political subdivision of this state, or another entity having the
17 power of eminent domain provided that the costs related to such
18 projects have not been reimbursed to the water corporation.

19 393.1003. 1. Notwithstanding any provisions of chapter
20 386, RSMo, and this chapter to the contrary, as of August 28,
21 2003, a water corporation providing water service in a county
22 with a charter form of government and with more than one million
23 inhabitants may file a petition and proposed rate schedules with
24 the commission to establish or change ISRS rate schedules that
25 will allow for the adjustment of the water corporation's rates

1 and charges to provide for the recovery of costs for eligible
2 infrastructure system replacements made in such county with a
3 charter form of government and with more than one million
4 inhabitants; provided that an ISRS, on an annualized basis, shall
5 produce ISRS revenues of at least one million dollars but not in
6 excess of ten percent of the water corporation's base revenue
7 level approved by the commission in the water corporation's most
8 recent general rate proceeding. An ISRS and any future changes
9 thereto shall be calculated and implemented in accordance with
10 the provisions of sections 393.1000 to 393.1006. ISRS revenues
11 shall be subject to refund based upon a finding and order of the
12 commission, to the extent provided in subsections 5 and 8 of
13 section 393.1006.

14 2. The commission shall only approve an ISRS to eligible
15 water corporation in a county with a charter form of government
16 and with more than one million inhabitants. The commission shall
17 not approve an ISRS for a water corporation that has not had a
18 general rate proceeding decided or dismissed by issuance of a
19 commission order within the past three years, unless the water
20 corporation has filed for or is the subject of a new general rate
21 proceeding.

22 3. In no event shall a water corporation collect an ISRS
23 for a period exceeding three years unless the water corporation
24 has filed for or is the subject of a new general rate proceeding;
25 provided that the ISRS may be collected until the effective date

1 of new rate schedules established as a result of the new general
2 rate proceeding, or until the subject general rate proceeding is
3 otherwise decided or dismissed by issuance of a commission order
4 without new rates being established.

5 393.1006. 1. (1) At the time that a water corporation
6 files a petition with the commission seeking to establish or
7 change an ISRS, it shall submit proposed ISRS rate schedules and
8 its supporting documentation regarding the calculation of the
9 proposed ISRS with the petition, and shall serve the office of
10 the public counsel with a copy of its petition, its proposed rate
11 schedules and its supporting documentation.

12 (2) Upon the filing of a petition, and any associated rate
13 schedules, seeking to establish or change an ISRS, the commission
14 shall publish notice of the filing.

15 2. (1) When a petition, along with any associated proposed
16 rate schedules, is filed pursuant to the provisions of sections
17 393.1000 to 393.1006, the commission shall conduct an examination
18 of the proposed ISRS.

19 (2) The staff of the commission may examine information of
20 the water corporation to confirm that the underlying costs are in
21 accordance with the provisions of sections 393.1000 to 393.1006,
22 and to confirm proper calculation of the proposed charge, and may
23 submit a report regarding its examination to the commission not
24 later than sixty days after the petition is filed. No other
25 revenue requirement or ratemaking issues shall be examined in

1 consideration of the petition or associated proposed rate
2 schedules filed pursuant to the provisions of sections 393.1000
3 to 393.1006.

4 (3) The commission may hold a hearing on the petition and
5 any associated rate schedules and shall issue an order to become
6 effective not later than one hundred twenty days after the
7 petition is filed.

8 (4) If the commission finds that a petition complies with
9 the requirements of sections 393.1000 to 393.1006, the commission
10 shall enter an order authorizing the water corporation to impose
11 an ISRS that is sufficient to recover appropriate pretax
12 revenues, as determined by the commission pursuant to the
13 provisions of sections 393.1000 to 393.1006.

14 3. A water corporation may effectuate a change in its rate
15 pursuant to this section no more often than two times every
16 twelve months.

17 4. In determining the appropriate pretax revenues, the
18 commission shall consider only the following factors:

19 (1) The current state, federal, and local income or excise
20 tax rates;

21 (2) The water corporation's actual regulatory capital
22 structure as determined during the most recent general rate
23 proceeding of the water corporation;

24 (3) The actual cost rates for the water corporation's debt
25 and preferred stock as determined during the most recent general

1 rate proceeding of the water corporation;

2 (4) The water corporation's cost of common equity as
3 determined during the most recent general rate proceeding of the
4 water corporation;

5 (5) The current property tax rate or rates applicable to
6 the eligible infrastructure system replacements;

7 (6) The current depreciation rates applicable to the
8 eligible infrastructure system replacements;

9 (7) In the event information called for in subdivisions
10 (2), (3), and (4) is unavailable and the commission is not
11 provided with such information on an agreed-upon basis, the
12 commission shall refer to the testimony submitted during the most
13 recent general rate proceeding of the water corporation and use,
14 in lieu of any such unavailable information, the recommended
15 capital structure, recommended cost rates for debt and preferred
16 stock, and recommended cost of common equity that would produce
17 the average weighted cost of capital based upon the various
18 recommendations contained in such testimony.

19 5. (1) An ISRS shall be calculated based upon the amount
20 of ISRS costs that are eligible for recovery during the period in
21 which the surcharge will be in effect and upon the applicable
22 customer class billing determinants utilized in designing the
23 water corporation's customer rates in its most recent general
24 rate proceeding. The commission shall, however, only allow such
25 surcharges to apply to classes of customers receiving a benefit

1 from the subject water utility plant projects or shall prorate
2 the surcharge according to the benefit received by each class of
3 customers; provided that the ISRS shall be applied in a manner
4 consistent with the customer class cost-of-service study
5 recognized by the commission in the water corporation's most
6 recent general rate proceeding, if applicable, and with the rate
7 design methodology utilized to develop the water corporation's
8 rates resulting from its most recent general rate proceeding.
9 The ISRS surcharge shall not apply to those customers classified
10 as industrial by the commission.

11 (2) At the end of each twelve-month calendar period that an
12 ISRS is in effect, the water corporation shall reconcile the
13 differences between the revenues resulting from an ISRS and the
14 appropriate pretax revenues as found by the commission for that
15 period and shall submit the reconciliation and a proposed ISRS
16 adjustment to the commission for approval to recover or refund
17 the difference, as appropriate, through adjustment of an ISRS.
18 In the event of a refund, the water corporation shall pay
19 interest on the overcollected revenues pursuant to the ISRS.

20 6. (1) A water corporation that has implemented an ISRS
21 pursuant to the provisions of sections 393.1000 to 393.1006 shall
22 file revised rate schedules to reset the ISRS to zero when new
23 base rates and charges become effective for the water corporation
24 following a commission order establishing customer rates in a
25 general rate proceeding that incorporates in the utility's base

1 rates eligible costs previously reflected in an ISRS.

2 (2) Upon the inclusion in a water corporation's base rates
3 of eligible costs previously reflected in an ISRS, the water
4 corporation shall immediately thereafter reconcile any previously
5 unreconciled ISRS revenues as necessary to ensure that revenues
6 resulting from the ISRS match as closely as possible the
7 appropriate pretax revenues as found by the commission for that
8 period.

9 7. A water corporation's filing of a petition to establish
10 or change an ISRS pursuant to the provisions of sections 393.1000
11 to 393.1006 shall not be considered a request for a general
12 increase in the water corporation's base rates and charges.

13 8. Commission approval of a petition, and any associated
14 rate schedules, to establish or change an ISRS pursuant to the
15 provisions of sections 393.1000 to 393.1006 shall in no way be
16 binding upon the commission in determining the ratemaking
17 treatment to be applied to eligible infrastructure system
18 replacements during a subsequent general rate proceeding when the
19 commission may undertake to review the prudence of such costs.
20 In the event the commission disallows, during a subsequent
21 general rate proceeding, recovery of costs associated with
22 eligible infrastructure system replacements previously included
23 in an ISRS, the water corporation shall offset its ISRS in the
24 future as necessary to recognize and account for any such
25 overcollections.

1 9. Nothing contained in sections 393.1000 to 393.1006 shall
2 be construed to impair in any way the authority of the commission
3 to review the reasonableness of the rates or charges of a water
4 corporation, including review of the prudence of eligible
5 infrastructure system replacements made by a water corporation,
6 pursuant to the provisions of section 386.390, RSMo.

7 10. The commission shall have authority to promulgate rules
8 for the implementation of sections 393.1000 to 393.1006, but only
9 to the extent such rules are consistent with, and do not delay
10 the implementation of, the provisions of sections 393.1000 to
11 393.1006. No rule or portion of a rule promulgated pursuant to
12 the authority of this section shall become effective unless it
13 has been promulgated pursuant to chapter 536, RSMo.

14 640.100. 1. The safe drinking water commission created in
15 section 640.105 shall promulgate rules necessary for the
16 implementation, administration and enforcement of sections
17 640.100 to 640.140 and the federal Safe Drinking Water Act as
18 amended.

19 2. No standard, rule or regulation or any amendment or
20 repeal thereof shall be adopted except after a public hearing to
21 be held by the commission after at least thirty days' prior
22 notice in the manner prescribed by the rulemaking provisions of
23 chapter 536, RSMo, and an opportunity given to the public to be
24 heard; the commission may solicit the views, in writing, of
25 persons who may be affected by, knowledgeable about, or

1 interested in proposed rules and regulations, or standards. Any
2 person heard or registered at the hearing, or making written
3 request for notice, shall be given written notice of the action
4 of the commission with respect to the subject thereof. Any rule
5 or portion of a rule, as that term is defined in section 536.010,
6 RSMo, that is promulgated to administer and enforce sections
7 640.100 to 640.140 shall become effective only if the agency has
8 fully complied with all of the requirements of chapter 536, RSMo,
9 including but not limited to, section 536.028, RSMo, if
10 applicable, after June 9, 1998. All rulemaking authority
11 delegated prior to June 9, 1998, is of no force and effect and
12 repealed as of June 9, 1998, however, nothing in this section
13 shall be interpreted to repeal or affect the validity of any rule
14 adopted or promulgated prior to June 9, 1998. If the provisions
15 of section 536.028, RSMo, apply, the provisions of this section
16 are nonseverable and if any of the powers vested with the general
17 assembly pursuant to section 536.028, RSMo, to review, to delay
18 the effective date, or to disapprove and annul a rule or portion
19 of a rule are held unconstitutional or invalid, the purported
20 grant of rulemaking authority and any rule so proposed and
21 contained in the order of rulemaking shall be invalid and void,
22 except that nothing in this chapter or chapter 644, RSMo, shall
23 affect the validity of any rule adopted and promulgated prior to
24 June 9, 1998.

25 3. The commission shall promulgate rules and regulations

1 for the certification of public water system operators, backflow
2 prevention assembly testers and laboratories conducting tests
3 pursuant to sections 640.100 to 640.140. Any person seeking to
4 be a certified backflow prevention assembly tester shall
5 satisfactorily complete standard, nationally recognized written
6 and performance examinations designed to ensure that the person
7 is competent to determine if the assembly is functioning within
8 its design specifications. Any such state certification shall
9 satisfy any need for local certification as a backflow prevention
10 assembly tester. However, political subdivisions may set
11 additional testing standards for individuals who are seeking to
12 be certified as backflow prevention assembly testers.

13 Notwithstanding any other provision of law to the contrary,
14 agencies of the state or its political subdivisions shall only
15 require carbonated beverage dispensers to conform to the backflow
16 protection requirements established in the National Sanitation
17 Foundation standard eighteen, and the dispensers shall be so
18 listed by an independent testing laboratory. The commission
19 shall promulgate rules and regulations for collection of samples
20 and analysis of water furnished by municipalities, corporations,
21 companies, state establishments, federal establishments or
22 individuals to the public. The department of natural resources
23 or the department of health and senior services shall, at the
24 request of any supplier, make any analyses or tests required
25 pursuant to the terms of section 192.320, RSMo, and sections

1 640.100 to 640.140. The department shall collect fees to cover
2 the reasonable cost of laboratory services, both within the
3 department of natural resources and the department of health and
4 senior services, laboratory certification and program
5 administration as required by sections 640.100 to 640.140. The
6 laboratory services and program administration fees pursuant to
7 this subsection shall not exceed two hundred dollars for a
8 supplier supplying less than four thousand one hundred service
9 connections, three hundred dollars for supplying less than seven
10 thousand six hundred service connections, five hundred dollars
11 for supplying seven thousand six hundred or more service
12 connections, and five hundred dollars for testing surface water.
13 Such fees shall be deposited in the safe drinking water fund as
14 specified in section 640.110. The analysis of all drinking water
15 required by section 192.320, RSMo, and sections 640.100 to
16 640.140 shall be made by the department of natural resources
17 laboratories, department of health and senior services
18 laboratories or laboratories certified by the department of
19 natural resources.

20 4. The department of natural resources shall establish and
21 maintain an inventory of public water supplies and conduct
22 sanitary surveys of public water systems. The department shall
23 maintain such inventory which shall be classified as follows:

24 (1) Class I - Population under one thousand;

25 (2) Class II - Population under five thousand;

1 (3) Class III - Population under ten thousand;

2 (4) Class IV - Population under twenty thousand; and

3 (5) Class V - Population over twenty thousand.

4 Such records shall be available for public inspection during
5 regular business hours.

6 5. (1) For the purpose of complying with federal
7 requirements for maintaining the primacy of state enforcement of
8 the federal Safe Drinking Water Act, the department is hereby
9 directed to request appropriations from the general revenue fund
10 and all other appropriate sources to fund the activities of the
11 public drinking water program and in addition to the fees
12 authorized pursuant to subsection 3 of this section, an annual
13 fee for each customer service connection with a public water
14 system is hereby authorized to be imposed upon all customers of
15 public water systems in this state. The fees collected shall not
16 exceed the amounts specified in this subsection and the
17 commission may set the fees, by rule, in a lower amount by
18 proportionally reducing all fees charged pursuant to this
19 subsection from the specified maximum amounts. Each customer of
20 a public water system shall pay an annual fee for each customer
21 service connection.

22 (2) The annual fee per customer service connection for
23 unmetered customers and customers with meters not greater than
24 one inch in size shall be based upon the number of service
25 connections in the water system serving that customer, and shall

not exceed:

1 to 1,000 connections	\$2.00
1,001 to 4,000 connections	1.84
4,001 to 7,000 connections	1.67
7,001 to 10,000 connections	1.50
10,001 to 20,000 connections	1.34
20,001 to 35,000 connections	1.17
35,001 to 50,000 connections	1.00
50,001 to 100,000 connections84
More than 100,000 connections66.

(3) The annual user fee for customers having meters greater than one inch but less than or equal to two inches in size shall not exceed five dollars; for customers with meters greater than two inches but less than or equal to four inches in size shall not exceed twenty-five dollars; and for customers with meters greater than four inches in size shall not exceed fifty dollars.

(4) Customers served by multiple connections shall pay an annual user fee based on the above rates for each connection, except that no single facility served by multiple connections shall pay a total of more than five hundred dollars per year.

6. Fees imposed pursuant to subsection 5 of this section shall become effective on August 28, 1992, and shall be collected by the public water system serving the customer. The commission shall promulgate rules and regulations on the procedures for billing, collection and delinquent payment. Fees collected by a

1 public water system pursuant to subsection 5 of this section are
2 state fees. The annual fee shall be enumerated separately from
3 all other charges, and shall be collected in monthly, quarterly
4 or annual increments. Such fees shall be transferred to the
5 director of the department of revenue at frequencies not less
6 than quarterly. Two percent of the revenue arising from the fees
7 shall be retained by the public water system for the purpose of
8 reimbursing its expenses for billing and collection of such fees.

9 7. Imposition and collection of the fees authorized in
10 subsection 5 of this section shall be suspended on the first day
11 of a calendar quarter if, during the preceding calendar quarter,
12 the federally delegated authority granted to the safe drinking
13 water program within the department of natural resources to
14 administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is
15 withdrawn. The fee shall not be reinstated until the first day
16 of the calendar quarter following the quarter during which such
17 delegated authority is reinstated.

18 8. Any project which receives state or federal funds
19 pursuant to section 640.107 or 640.600 shall use the formula set
20 forth pursuant to section 640.620 for payment of costs incurred
21 in the planning and design of such projects.

22 [8.] 9. Fees imposed pursuant to subsection 5 of this
23 section shall expire on September 1, 2007.

24 640.115. 1. Every municipal corporation, private
25 corporation, company, partnership, federal establishment, state

1 establishment or individual supplying or authorized to supply
2 drinking water to the public within the state shall file with the
3 department of natural resources a certified copy of the plans and
4 surveys of the waterworks with a description of the methods of
5 purification, treatment technology and source from which the
6 supply of water is derived, and no source of supply shall be used
7 without a written permit of approval issued to the continuing
8 operating authority by the department of natural resources, or
9 water dispensed to the public without first obtaining such
10 written permit of approval. Prior to a change of permittee, the
11 current permittee shall notify the department of the proposed
12 change and the department shall perform a permit review.

13 2. Construction, extension or alteration of a public water
14 system shall be, pursuant to section 640.620, in accordance with
15 the rules and regulations of the safe drinking water commission.

16 3. Permit applicants shall show, as part of their
17 application, that a permanent organization exists which will
18 serve as the continuing operating authority for the management,
19 operation, replacement, maintenance and modernization of the
20 facility. Such continuing operating authority for all community
21 water systems and nontransient, noncommunity water systems
22 commencing operation after October 1, 1999, shall be required to
23 have and maintain the managerial, technical and financial
24 capacity, as determined by the department, to comply with
25 sections 640.100 to 640.140.

1 4. Any community water system or nontransient, noncommunity
2 water system against which an administrative order has been
3 issued for significant noncompliance with the federal Safe
4 Drinking Water Act, as amended, sections 640.100 to 640.140 or
5 any rule or regulation promulgated thereunder shall be required
6 to show that a permanent organization exists that serves as the
7 continuing operating authority for the facility and that such
8 continuing operating authority has the managerial, technical and
9 financial capacity to comply with sections 640.100 to 640.140 and
10 regulations promulgated thereunder. If the water system cannot
11 show to the department's satisfaction that such continuing
12 operating authority exists, or if the water system is not making
13 substantial progress toward compliance, the water system's permit
14 may be revoked. The continuing operating authority may reapply
15 for a permit in accordance with rules promulgated by the
16 commission.

17 640.605. The grants may be made to districts or communities
18 to assist in financing, including engineering and legal service
19 costs, specific projects for construction, original or
20 enlargement of supply, source water protection treatment,
21 purification, storage and distribution facilities for water
22 systems and collection, treatment, forced mains, lift stations
23 and disposal facilities for sewage systems, or any other item
24 necessary for the physical operation of the water or sewage
25 systems where grant funds are necessary to reduce the project

1 cost per user to a reasonable level. Any engineering or design
2 costs shall follow the formula set forth pursuant to section
3 640.620. The grants may be made to supplement funds from loan
4 proceeds or other private or public sources when such grants are
5 not available through any other state or federal agency.

6 640.615. 1. The applicant must first apply with the agency
7 or other financial source which is to furnish the primary
8 financial assistance, and after the amount of that assistance has
9 been determined, an application for a grant hereunder may be made
10 to and processed by the department of natural resources. The
11 department of natural resources shall make the necessary rules
12 and regulations for the consideration and processing of all grant
13 requests, which shall generally conform to those used by federal
14 grant and loan agencies, which rules shall be filed in the office
15 of the secretary of state. The rules shall contain, but shall
16 not be limited to, the following criteria:

17 (1) Preliminary engineer cost study, pursuant to the
18 formula as set forth in section 640.620;

19 (2) Bonded indebtedness of the district or community;

20 (3) The financial condition of the district or community;

21 (4) The cost per connection;

22 (5) The economic level in the district or community;

23 (6) The ratio of contracted users to potential users, which
24 shall not be less than seventy-five percent;

25 (7) The number of acres being protected for any source

1 water protection project.

2 2. No grant shall be finally approved until the applicant
3 furnishes evidence of a commitment from the primary financial
4 source.

5 640.620. In any case, the grant shall not be in excess of
6 one thousand four hundred dollars per connection, or, in the case
7 of a source water protection project, for more than twenty
8 percent of the cost per acre for conservation reserve, except
9 when any entity provides a certified design and operation plan
10 which is less than the average per capita cost for installations
11 within the same population classification established pursuant to
12 subsection 4 of section 640.100, then the certified licensed
13 engineer or company providing such engineering or design service
14 shall receive payment in an amount equal to the usual and
15 customary fee for such project plus additional compensation equal
16 to two times the percentage by which the cost of construction of
17 such facility is less than the average per capita cost of
18 facilities within the same population classification as set forth
19 in subsection 4 of section 640.100, and, except as otherwise
20 provided in this section, no district or system may receive more
21 than one grant for any purpose in any two-year period. Such
22 entity shall also pay to such engineer or company providing such
23 engineering service compensation equal to twenty-five percent of
24 the amount of any annual operational costs which are lower than
25 the average per capita operational costs for facilities within

1 the population classifications set forth pursuant to subsection 4
2 of section 640.100 for a period of time equal to one-fourth the
3 design lifetime of such facility or five years whichever is less.

4 Grantees who received or who are receiving funds under the
5 1993-1994 special allocation for flood-impacted communities are
6 not subject to the prohibition against receiving more than one
7 grant during any two-year period for a period ending two years
8 after the final grant allocation for flood-impacted communities
9 is received by that grantee.

10 643.078. 1. It shall be unlawful for any person to operate
11 any regulated air contaminant class A source, including any air
12 contaminant source which takes enforceable permit conditions to
13 limit potential emissions below one hundred tons per year of any
14 air contaminant, after August 28, 1992, without an operating
15 permit except as otherwise provided in sections 643.010 to
16 643.190.

17 2. At the option of the permit applicant, a single
18 operating permit shall be issued for a facility having multiple
19 air contaminant sources located on one or more contiguous tracts
20 of land, excluding public roads, highways and railroads, under
21 the control of or owned by the permit holder and operated as a
22 single enterprise.

23 3. Any person who wishes to construct or modify and operate
24 any regulated air contaminant source shall submit an application
25 to the department for the unified review of a construction permit

1 application [under] pursuant to section 643.075 and an operating
2 permit application [under] pursuant to this section, unless the
3 applicant requests in writing that the construction and operating
4 permit applications be reviewed separately. [The director shall
5 complete any unified review within one hundred and eighty days of
6 receipt of the request for a class B source.] For a class A
7 source, the unified review shall be completed within the time
8 period established in section 502 of the federal Clean Air Act,
9 as amended, 42 U.S.C. 7661.

10 4. As soon as the review process is completed for the
11 construction and operating permits and, if the applicant complies
12 with all applicable requirements of sections 643.010 to 643.190
13 and all rules adopted thereunder, the construction permit shall
14 be issued to the applicant. The operating permit shall be
15 retained by the department until validated.

16 5. Within one hundred and eighty days of commencing
17 operations, the holder of a construction permit shall submit to
18 the director such information as is necessary to demonstrate
19 compliance with the provisions of sections 643.010 to 643.190 and
20 the terms and conditions of the construction permit. The
21 operating permit retained by the department shall be validated
22 and forwarded to the applicant if the applicant is in compliance
23 with the terms and conditions of the construction permit and the
24 terms and conditions of the operating permit. The holder of a
25 construction permit may request a waiver of the one hundred and

1 eighty day time period and the director may grant such request by
2 mutual agreement.

3 6. If the director determines that an air contaminant
4 source does not meet the terms and conditions of the construction
5 permit and that the operation of the source will result in
6 emissions which exceed the limits established in the construction
7 permit, he shall not validate the operating permit. If the
8 source corrects the deficiency, the director shall then validate
9 the operating permit. If the source is unable to correct the
10 deficiency, then the director and the applicant may, by mutual
11 agreement, add such terms and conditions to the operating permit
12 which are deemed appropriate, so long as the emissions from the
13 air contaminant source do not exceed the limits established in
14 the construction permit, and the director shall validate the
15 operating permit. The director may add terms and conditions to
16 the operating permit which allow the source to exceed the
17 emission limits established in the construction permit. In such
18 a case, the director shall notify the affected public and the
19 commission shall, upon request by any affected person, hold a
20 public hearing upon the revised operating permit application.

21 7. Except as provided in subsection 8 of this section, an
22 operating permit shall be valid for five years from the date of
23 issuance or validation, whichever is later, unless otherwise
24 revoked or terminated pursuant to sections 643.010 to 643.190.

25 8. An applicant for a construction permit for an air

1 contaminant source with valid operating permit may request that
2 the air contaminant source be issued a new five-year operating
3 permit. The operating permit would be issued in the manner and
4 [under] pursuant to the conditions provided in sections 643.010
5 to 643.190 and would supersede any existing operating permit for
6 the source.

7 9. [The director shall take action within thirty days after
8 a request for validation of the operating permit and shall render
9 a decision within one hundred twenty days of receipt of a request
10 for issuance of an operating permit for a class B source.] The
11 director shall render a decision within the time period
12 established in section 502 of the federal Clean Air Act, as
13 amended, 42 U.S.C. 7661, for a class A source. Any affected
14 person may appeal any permit decision, including failure to
15 render a decision within the time period established in this
16 section, to the commission.

17 10. The director may suspend, revoke or modify an operating
18 permit for cause.

19 11. The director shall not approve an operating permit if
20 he receives an objection to approval of the permit from the
21 United States Environmental Protection Agency within the time
22 period specified [under] pursuant to Title V of the Clean Air
23 Act, as amended, 42 U.S.C. 7661, et seq.

24 12. The director shall enforce all applicable federal
25 rules, standards and requirements issued [under] pursuant to the

1 federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., and
2 shall incorporate such applicable standards and any limitations
3 established pursuant to Title III into operating permits as
4 required [under] pursuant to Title V of the federal Clean Air
5 Act, as amended, 42 U.S.C. 7661, et seq.

6 13. Applicable standards promulgated by the commission by
7 rule shall be incorporated by the director into the operating
8 permit of any air contaminant source which has, on the effective
9 date of the rule, at least three years remaining before renewal
10 of its operating permit. If less than three years remain before
11 renewal of the source's operating permit, such applicable
12 standards shall be incorporated into the permit unless the permit
13 contains a shield from such new requirements consistent with
14 Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661,
15 et seq.

16 14. The holder of a valid operating permit shall have
17 operational flexibility to make changes to any air contaminant
18 source, if the changes will not result in air contaminant
19 emissions in excess of those established in the operating permit
20 or result in the emissions of any air contaminant not previously
21 emitted without obtaining a modification of the operating permit
22 provided such changes are consistent with Section 502(b)(10) of
23 the federal Clean Air Act, as amended, 42 U.S.C. 7661.

24 15. An air contaminant source with a valid operating permit
25 which submits a complete application for a permit renewal at

1 least six months prior to the expiration of the permit shall be
2 deemed to have a valid operating permit until the director acts
3 upon its permit application. The director shall promptly notify
4 the applicant in writing of his action on the application and if
5 the operating permit is not issued state the reasons therefor.

6 16. The applicant may appeal to the commission if an
7 operating permit is not issued or may appeal any condition,
8 suspension, modification or revocation of any permit by filing
9 notice of appeal with the commission within thirty days of the
10 notice of the director's response to the request for issuance of
11 the operating permit.

12 17. Any person who obtains a valid operating permit from a
13 city or county pursuant to the authority granted in section
14 643.140 shall be deemed to have met the requirements of this
15 section.

16 644.016. When used in sections 644.006 to 644.141 and in
17 standards, rules and regulations promulgated pursuant to sections
18 644.006 to 644.141, the following words and phrases mean:

19 (1) "Aquaculture facility", a hatchery, fish farm, or other
20 facility used for the production of aquatic animals that is
21 required to have a permit pursuant to the federal Clean Water
22 Act, as amended, 33 U.S.C. 1251 et seq.;

23 (2) "Commission", the clean water commission of the state
24 of Missouri created in section 644.021;

25 (3) "Conference, conciliation and persuasion", a process of

1 verbal or written communications consisting of meetings, reports,
2 correspondence or telephone conferences between authorized
3 representatives of the department and the alleged violator. The
4 process shall, at a minimum, consist of one offer to meet with
5 the alleged violator tendered by the department. During any such
6 meeting, the department and the alleged violator shall negotiate
7 in good faith to eliminate the alleged violation and shall
8 attempt to agree upon a plan to achieve compliance;

9 (4) "Department", the department of natural resources;

10 (5) "Director", the director of the department of natural
11 resources;

12 (6) "Discharge", the causing or permitting of one or more
13 water contaminants to enter the waters of the state;

14 (7) "Effluent control regulations", limitations on the
15 discharge of water contaminants;

16 (8) "General permit", a permit written with a standard
17 group of conditions and with applicability intended for a
18 designated category of water contaminant sources that have the
19 same or similar operations, discharges and geographical
20 locations, and that require the same or similar monitoring, and
21 that would be more appropriately controlled pursuant to a general
22 permit rather than pursuant to a site-specific permit;

23 (9) "Human sewage", human excreta and wastewater, including
24 bath and toilet waste, residential laundry waste, residential
25 kitchen waste, and other similar waste from household or

1 establishment appurtenances;

2 (10) "Income" includes retirement benefits, consultant
3 fees, and stock dividends;

4 (11) "Minor violation", a violation which possesses a small
5 potential to harm the environment or human health or cause
6 pollution, was not knowingly committed, and is not defined by the
7 United States Environmental Protection Agency as other than
8 minor;

9 (12) "Permit by rule", a permit granted by rule, not by a
10 paper certificate, and conditioned by the permit holder's
11 compliance with commission rules;

12 (13) "Permit holders or applicants for a permit" shall not
13 include officials or employees who work full time for any
14 department or agency of the state of Missouri;

15 (14) "Person", any individual, partnership, copartnership,
16 firm, company, public or private corporation, association, joint
17 stock company, trust, estate, political subdivision, or any
18 agency, board, department, or bureau of the state or federal
19 government, or any other legal entity whatever which is
20 recognized by law as the subject of rights and duties;

21 (15) "Point source", any discernible, confined and discrete
22 conveyance, including but not limited to any pipe, ditch,
23 channel, tunnel, conduit, well, discrete fissure, container,
24 rolling stock, concentrated animal feeding operation, or vessel
25 or other floating craft, from which pollutants are or may be

1 discharged. This term does not include agricultural stormwater
2 discharges and return flows from irrigated agriculture;

3 (16) "Pollution", such contamination or other alteration of
4 the physical, chemical or biological properties of any waters of
5 the state, including change in temperature, taste, color,
6 turbidity, or odor of the waters, or such discharge of any
7 liquid, gaseous, solid, radioactive, or other substance into any
8 waters of the state as will or is reasonably certain to create a
9 nuisance or render such waters harmful, detrimental or injurious
10 to public health, safety or welfare, or to domestic, industrial,
11 agricultural, recreational, or other legitimate beneficial uses,
12 or to wild animals, birds, fish or other aquatic life;

13 (17) "Pretreatment regulations", limitations on the
14 introduction of pollutants or water contaminants into publicly
15 owned treatment works or facilities which the commission
16 determines are not susceptible to treatment by such works or
17 facilities or which would interfere with their operation, except
18 that wastes as determined compatible for treatment pursuant to
19 any federal water pollution control act or guidelines shall be
20 limited or treated pursuant to this chapter only as required by
21 such act or guidelines;

22 (18) "Residential housing development", any land which is
23 divided or proposed to be divided into three or more lots,
24 whether contiguous or not, for the purpose of sale or lease as
25 part of a common promotional plan for residential housing;

1 (19) "Sewer system", pipelines or conduits, pumping
2 stations, and force mains, and all other structures, devices,
3 appurtenances and facilities used for collecting or conducting
4 wastes to an ultimate point for treatment or handling;

5 (20) "Significant portion of his or her income" shall mean
6 ten percent of gross personal income for a calendar year, except
7 that it shall mean fifty percent of gross personal income for a
8 calendar year if the recipient is over sixty years of age, and is
9 receiving such portion pursuant to retirement, pension, or
10 similar arrangement;

11 (21) "Site-specific permit", a permit written for
12 discharges emitted from a single water contaminant source and
13 containing specific conditions, monitoring requirements and
14 effluent limits to control such discharges;

15 (22) "Treatment facilities", any method, process, or
16 equipment which removes, reduces, or renders less obnoxious water
17 contaminants released from any source;

18 (23) "Water contaminant", any particulate matter or solid
19 matter or liquid or any gas or vapor or any combination thereof,
20 or any temperature change which is in or enters any waters of the
21 state either directly or indirectly by surface runoff, by sewer,
22 by subsurface seepage or otherwise, which causes or would cause
23 pollution upon entering waters of the state, or which violates or
24 exceeds any of the standards, regulations or limitations set
25 forth in sections 644.006 to 644.141 or any federal water

1 pollution control act, or is included in the definition of
2 pollutant in such federal act;

3 (24) "Water contaminant source", the point or points of
4 discharge from a single tract of property on which is located any
5 installation, operation or condition which includes any point
6 source defined in sections 644.006 to 644.141 [and nonpoint
7 source pursuant to any federal water pollution control act],
8 which causes or permits a water contaminant therefrom to enter
9 waters of the state either directly or indirectly;

10 (25) "Water quality standards", specified concentrations
11 and durations of water contaminants which reflect the
12 relationship of the intensity and composition of water
13 contaminants to potential undesirable effects;

14 (26) "Waters of the state", all rivers, streams, lakes and
15 other bodies of surface and subsurface water lying within or
16 forming a part of the boundaries of the state which are not
17 entirely confined and located completely upon lands owned, leased
18 or otherwise controlled by a single person or by two or more
19 persons jointly or as tenants in common and includes waters of
20 the United States lying within the state.

21 644.051. 1. It is unlawful for any person:

22 (1) To cause pollution of any waters of the state or to
23 place or cause or permit to be placed any water contaminant in a
24 location where it is reasonably certain to cause pollution of any
25 waters of the state;

1 (2) To discharge any water contaminants into any waters of
2 the state which reduce the quality of such waters below the water
3 quality standards established by the commission;

4 (3) To violate any pretreatment and toxic material control
5 regulations, or to discharge any water contaminants into any
6 waters of the state which exceed effluent regulations or permit
7 provisions as established by the commission or required by any
8 federal water pollution control act;

9 (4) To discharge any radiological, chemical, or biological
10 warfare agent or high-level radioactive waste into the waters of
11 the state.

12 2. It shall be unlawful for any person to build, erect,
13 alter, replace, operate, use or maintain any water contaminant or
14 point source in this state that is subject to standards, rules or
15 regulations promulgated pursuant to the provisions of sections
16 644.006 to 644.141 unless such person holds a permit from the
17 commission, subject to such exceptions as the commission may
18 prescribe by rule or regulation. However, no permit shall be
19 required of any person for any emission into publicly owned
20 treatment facilities or into publicly owned sewer systems
21 tributary to publicly owned treatment works.

22 3. Every proposed water contaminant or point source which,
23 when constructed or installed or established, will be subject to
24 any federal water pollution control act or sections 644.006 to
25 644.141 or regulations promulgated pursuant to the provisions of

1 such act shall make application to the director for a permit at
2 least thirty days prior to the initiation of construction or
3 installation or establishment. Every water contaminant or point
4 source in existence when regulations or sections 644.006 to
5 644.141 become effective shall make application to the director
6 for a permit within sixty days after the regulations or sections
7 644.006 to 644.141 become effective, whichever shall be earlier.
8 The director shall promptly investigate each application, which
9 investigation shall include such hearings and notice, and
10 consideration of such comments and recommendations as required by
11 sections 644.006 to 644.141 and any federal water pollution
12 control act. If the director determines that the source meets or
13 will meet the requirements of sections 644.006 to 644.141 and the
14 regulations promulgated pursuant thereto, the director shall
15 issue a permit with such conditions as he or she deems necessary
16 to ensure that the source will meet the requirements of sections
17 644.006 to 644.141 and any federal water pollution control act as
18 it applies to sources in this state. If the director determines
19 that the source does not meet or will not meet the requirements
20 of either act and the regulations pursuant thereto, the director
21 shall deny the permit pursuant to the applicable act and issue
22 any notices required by sections 644.006 to 644.141 and any
23 federal water pollution control act. Notwithstanding the
24 provisions of subsections 1 and 2 of this section to the
25 contrary, notices of violation shall not be issued for a release

1 of a water contaminant from an animal confinement facility or the
2 animal waste application system, excluding lagoons, that is
3 totally confined on the owner's property, so long as it does not
4 enter waters of the state and clean up begins within twenty-four
5 hours and is remediated as soon as practicable.

6 4. Before issuing a permit to build or enlarge a water
7 contaminant or point source or reissuing any permit, the director
8 shall issue such notices, conduct such hearings, and consider
9 such factors, comments and recommendations as required by
10 sections 644.006 to 644.141 or any federal water pollution
11 control act. The director shall determine if any state or any
12 provisions of any federal water pollution control act the state
13 is required to enforce, any state or federal effluent limitations
14 or regulations, water quality-related effluent limitations,
15 national standards of performance, toxic and pretreatment
16 standards, or water quality standards which apply to the source,
17 or any such standards in the vicinity of the source, are being
18 exceeded, and shall determine the impact on such water quality
19 standards from the source. The director, in order to effectuate
20 the purposes of sections 644.006 to 644.141, shall deny a permit
21 if the source will violate any such acts, regulations,
22 limitations or standards or will appreciably affect the water
23 quality standards or the water quality standards are being
24 substantially exceeded, unless the permit is issued with such
25 conditions as to make the source comply with such requirements

1 within an acceptable time schedule. Prior to the development or
2 renewal of a general permit or permit by rule, for aquaculture,
3 the director shall convene a meeting or meetings of permit
4 holders and applicants to evaluate the impacts of permits and to
5 discuss any terms and conditions that may be necessary to protect
6 waters of the state. Following the discussions, the director
7 shall finalize a draft permit that considers the comments of the
8 meeting participants and post the draft permit on notice for
9 public comment. The director shall concurrently post with the
10 draft permit an explanation of the draft permit and shall
11 identify types of facilities which are subject to the permit
12 conditions. Affected public or applicants for new general
13 permits, renewed general permits or permits by rule may request a
14 hearing with respect to the new requirements in accordance with
15 this section. If a request for a hearing is received, the
16 commission shall hold a hearing to receive comments on issues of
17 significant technical merit and concerns related to the
18 responsibilities of the Missouri clean water law. The commission
19 shall conduct such hearings in accordance with this section.
20 After consideration of such comments, a final action on the
21 permit shall be rendered. The time between the date of the
22 hearing request and the hearing itself shall not be counted as
23 time elapsed pursuant to subdivision (1) of subsection 13 of this
24 section.

25 5. The director shall grant or deny the permit within sixty

1 days after all requirements of the Federal Water Pollution
2 Control Act concerning issuance of permits have been satisfied
3 unless the application does not require any permit pursuant to
4 any federal water pollution control act. The director or the
5 commission may require the applicant to provide and maintain such
6 facilities or to conduct such tests and monitor effluents as
7 necessary to determine the nature, extent, quantity or degree of
8 water contaminant discharged or released from the source,
9 establish and maintain records and make reports regarding such
10 determination.

11 6. The director shall promptly notify the applicant in
12 writing of his or her action and if the permit is denied state
13 the reasons therefor. The applicant may appeal to the commission
14 from the denial of a permit or from any condition in any permit
15 by filing notice of appeal with the commission within thirty days
16 of the notice of denial or issuance of the permit. The
17 commission shall set the matter for hearing not less than thirty
18 days after the notice of appeal is filed. In no event shall a
19 permit constitute permission to violate the law or any standard,
20 rule or regulation promulgated pursuant thereto.

21 7. In any hearing held pursuant to this section the burden
22 of proof is on the applicant for a permit. Any decision of the
23 commission made pursuant to a hearing held pursuant to this
24 section is subject to judicial review as provided in section
25 644.071.

1 8. In any event, no permit issued pursuant to this section
2 shall be issued if properly objected to by the federal government
3 or any agency authorized to object pursuant to any federal water
4 pollution control act unless the application does not require any
5 permit pursuant to any federal water pollution control act.

6 9. Unless a site-specific permit is requested by the
7 applicant, aquaculture facilities shall be governed by a general
8 permit issued pursuant to this section with a fee not to exceed
9 two hundred fifty dollars pursuant to subdivision (5) of
10 subsection 6 of section 644.052. However, any aquaculture
11 facility which materially violates the conditions and
12 requirements of such permit may be required to obtain a
13 site-specific permit.

14 10. No manufacturing or processing plant or operating
15 location shall be required to pay more than one operating fee.
16 Operating permits shall be issued for a period not to exceed five
17 years after date of issuance, except that general permits shall
18 be issued for a five-year period, and also except that neither a
19 construction nor an annual permit shall be required for a single
20 residence's waste treatment facilities. Applications for renewal
21 of an operating permit shall be filed at least one hundred eighty
22 days prior to the expiration of the existing permit.

23 11. Every permit issued to municipal or any publicly owned
24 treatment works or facility shall require the permittee to
25 provide the clean water commission with adequate notice of any

1 substantial new introductions of water contaminants or pollutants
2 into such works or facility from any source for which such notice
3 is required by sections 644.006 to 644.141 or any federal water
4 pollution control act. Such permit shall also require the
5 permittee to notify the clean water commission of any substantial
6 change in volume or character of water contaminants or pollutants
7 being introduced into its treatment works or facility by a source
8 which was introducing water contaminants or pollutants into its
9 works at the time of issuance of the permit. Notice must
10 describe the quality and quantity of effluent being introduced or
11 to be introduced into such works or facility by a source which
12 was introducing water contaminants or pollutants into its works
13 at the time of issuance of the permit. Notice must describe the
14 quality and quantity of effluent being introduced or to be
15 introduced into such works or facility and the anticipated impact
16 of such introduction on the quality or quantity of effluent to be
17 released from such works or facility into waters of the state.

18 12. The director or the commission may require the filing
19 or posting of a bond as a condition for the issuance of permits
20 for construction of temporary or future water treatment
21 facilities in an amount determined by the commission to be
22 sufficient to ensure compliance with all provisions of sections
23 644.006 to 644.141, and any rules or regulations of the
24 commission and any condition as to such construction in the
25 permit. The bond shall be signed by the applicant as principal,

1 and by a corporate surety licensed to do business in the state of
2 Missouri and approved by the commission. The bond shall remain
3 in effect until the terms and conditions of the permit are met
4 and the provisions of sections 644.006 to 644.141 and rules and
5 regulations promulgated pursuant thereto are complied with.

6 13. (1) The department shall issue or deny applications
7 for construction and site-specific operating permits received
8 after January 1, 2001, within one hundred eighty days of the
9 department's receipt of an application. For general construction
10 and operating permit applications received after January 1, 2001,
11 that do not require a public participation process, the
12 department shall issue or deny the requested permits within sixty
13 days of the department's receipt of an application.

14 (2) If the department fails to issue or deny with good
15 cause a construction or operating permit application within the
16 time frames established in subdivision (1) of this subsection,
17 the department shall refund the full amount of the initial
18 application fee within forty-five days of failure to meet the
19 established time frame. If the department fails to refund the
20 application fee within forty-five days, the refund amount shall
21 accrue interest at a rate established pursuant to section 32.065,
22 RSMo.

23 (3) Permit fee disputes may be appealed to the commission
24 within thirty days of the date established in subdivision (2) of
25 this subsection. If the applicant prevails in a permit fee

1 dispute appealed to the commission, the commission may order the
2 director to refund the applicant's permit fee plus interest and
3 reasonable attorney's fees as provided in sections 536.085 and
4 536.087, RSMo. A refund of the initial application or annual fee
5 does not waive the applicant's responsibility to pay any annual
6 fees due each year following issuance of a permit.

7 (4) No later than December 31, 2001, the commission shall
8 promulgate regulations defining shorter review time periods than
9 the time frames established in subdivision (1) of this
10 subsection, when appropriate, for different classes of
11 construction and operating permits. In no case shall commission
12 regulations adopt permit review times that exceed the time frames
13 established in subdivision (1) of this subsection. The
14 department's failure to comply with the commission's permit
15 review time periods shall result in a refund of said permit fees
16 as set forth in subdivision (2) of this subsection. On a
17 semiannual basis, the department shall submit to the commission a
18 report which describes the different classes of permits and
19 reports on the number of days it took the department to issue
20 each permit from the date of receipt of the application and show
21 averages for each different class of permits.

22 (5) During the department's technical review of the
23 application, the department may request the applicant submit
24 supplemental or additional information necessary for adequate
25 permit review. The department's technical review letter shall

1 contain a sufficient description of the type of additional
2 information needed to comply with the application requirements.

3 (6) Nothing in this subsection shall be interpreted to mean
4 that inaction on a permit application shall be grounds to violate
5 any provisions of sections 644.006 to 644.141 or any rules
6 promulgated pursuant to sections 644.006 to 644.141.

7 14. The department shall respond to all requests for
8 individual certification under Section 401 of the Federal Clean
9 Water Act within the lesser of sixty days or the allowed response
10 period established pursuant to applicable federal regulations
11 without request for an extension period unless such extension is
12 determined by the commission to be necessary to evaluate
13 significant impacts on water quality standards and the commission
14 establishes a timetable for completion of such evaluation in a
15 period of no more than one hundred eighty days.

16 15. All permit fees generated pursuant to this chapter
17 shall not be used for the development or expansion of total
18 maximum daily loads studies on either the Missouri or Mississippi
19 rivers.

20 644.145. 1. The commission shall develop criteria to
21 determine "per capita average cost" for construction and
22 operation of a wastewater or drinking water facility by an
23 assessment of the records and financial cost for similar projects
24 or facilities in this state within the previous seven years.

25 2. After the commission has developed a criteria for a "per

1 capita average cost", the commission shall develop criteria to
2 compensate the engineer or engineer firm for design and
3 construction of wastewater or drinking water facilities which are
4 lower than such per capita cost average as set forth pursuant to
5 section 640.620, RSMo.

6 3. Any rule or portion of a rule, as that term is defined
7 in section 536.010, RSMo, that is created under the authority
8 delegated in this section shall become effective only if it
9 complies with and is subject to all of the provisions of chapter
10 536, RSMo, and, if applicable, section 536.028, RSMo. This
11 section and chapter 536, RSMo, are nonseverable and if any of the
12 powers vested with the general assembly pursuant to chapter 536,
13 RSMo, to review, to delay the effective date, or to disapprove
14 and annul a rule are subsequently held unconstitutional, then the
15 grant of rulemaking authority and any rule proposed or adopted
16 after August 28, 2003, shall be invalid and void.

17 644.581. In addition to those sums authorized prior to
18 August 28, 2004, the board of fund commissioners of the state of
19 Missouri, as authorized by section 37(e) of article III of the
20 Constitution of the state of Missouri, may borrow on the credit
21 of this state the sum of ten million dollars in the manner
22 described, and for the purposes set out, in chapter 640, RSMo,
23 and this chapter.

24 644.582. In addition to those sums authorized prior to
25 August 28, 2004, the board of fund commissioners of the state of

1 Missouri, as authorized by section 37(g) of article III of the
2 Constitution of the state of Missouri, may borrow on the credit
3 of this state the sum of ten million dollars in the manner
4 described, and for the purposes set out, in chapter 640, RSMo,
5 and in this chapter.

6 644.583. In addition to those sums authorized prior to
7 August 28, 2004, the board of fund commissioners of the state of
8 Missouri, as authorized by section 37(h) of article III of the
9 Constitution of the state of Missouri, may borrow on the credit
10 of this state the sum of twenty million dollars in the manner
11 described, and for the purposes set out, in chapter 640, RSMo,
12 and in this chapter.

13 644.600. Sections 644.600, 644.625, 644.630, 644.635 and
14 644.650 shall only apply to class IA facilities which use a flush
15 system.

16 644.603. For the purposes of sections 644.600 to 644.655,
17 the following terms mean:

18 (1) "Animal feeding operation" or "AFO", a lot or facility,
19 other than an aquatic animal production facility, where the
20 following conditions are met:

21 (a) Animals, other than aquatic animals, have been, are, or
22 will be stabled or confined and fed or maintained for a total of
23 forty-five days or more in any twelve-month period; and

24 (b) Crops, vegetation, forage growth, or post-harvest
25 residues are not sustained in the normal growing season over any

1 portion of the lot or facility;

2 (2) "Class I", the same meaning as a large concentrated
3 animal feeding operation as that term is defined in 40 C.F.R.
4 Section 122.23(b)(4) as of April 14, 2003;

5 (3) "Class IA", any concentrated animal feeding operation
6 with a capacity of at least seven times the number of animals as
7 described in the definition of a large concentrated animal
8 feeding operation as that term is defined in 40 C.F.R. Section
9 122.23(b)(4) as of April 14, 2003;

10 (4) "Class IB", any concentrated animal feeding operation
11 with a capacity of at least three but less than seven times the
12 number of animals as described in the definition of a large
13 concentrated animal feeding operation as that term is defined in
14 40 C.F.R. Section 122.23(b)(4) as of April 14, 2003;

15 (5) "Class IC", any concentrated animal feeding operation
16 with a capacity of at least one but less than three times the
17 number of animals as described in the definition of a large
18 concentrated animal feeding operation as that term is defined in
19 40 C.F.R. Section 122.23(b)(4) as of April 14, 2003;

20 (6) "Class II", the same meaning as a medium concentrated
21 animal feeding operation as that term is defined in 40 C.F.R.
22 Section 122.23(b)(6) as of April 14, 2003;

23 (7) "Concentrated animal feeding operation" or "CAFO", an
24 AFO that is defined as a class I CAFO or class II CAFO, or is
25 designated as a CAFO in accordance with subsection 2 of section

1 644.610. Two or more AFOs under common ownership are considered
2 to be a single AFO for the purposes of determining the number of
3 animals at an operation if such AFOs adjoin each other or use a
4 common area or system for the disposal of waste;

5 (8) "Department", the department of natural resources;

6 (9) "Facility", any class IA concentrated animal feeding
7 operation which uses a flush system;

8 (10) "Flush system", an automated system of moving or
9 removing manure utilizing liquid as the primary agent as opposed
10 to a primarily mechanical or manually operated system such as a
11 pull plug or scraper system;

12 (11) "Liquified animal waste handling facility", any
13 concentrated animal feeding operation that stores animal waste in
14 a lagoon, including all gravity outfall lines, recycle pump
15 stations, and recycle force mains;

16 (12) "Sensitive areas", areas in the watershed located
17 within five miles upstream of any stream or river drinking water
18 intake structure, other than those intake structures on the
19 Missouri and Mississippi rivers.

20 644.610. 1. The clean water commission shall have the
21 authority and jurisdiction to regulate the establishment,
22 permitting, design, construction, operation, and management of
23 any class I concentrated animal feeding operation. The clean
24 water commission shall promulgate rules regulating the
25 establishment, permitting, design, construction, operation, and

1 management of any class I concentrated animal feeding operations.
2 Such rules may require monitoring wells on a site-specific basis
3 when, in the determination of the division of geological survey
4 and resource assessment, class IA concentrated animal feeding
5 operation lagoons are located in hydrologically sensitive areas
6 where the quality of groundwater may be compromised. Such rules
7 and regulations shall be designed to afford a prudent degree of
8 environmental protection while accommodating modern agricultural
9 practices.

10 2. The department may designate an AFO as a concentrated
11 animal feeding operation upon determining that it is a
12 significant contributor of pollutants to waters of the state.

13 (1) In making this designation, the department shall
14 consider the following factors:

15 (a) The size of the AFO and the amount of wastes reaching
16 waters of the state;

17 (b) The location of the AFO relative to waters of the
18 state;

19 (c) The means of conveyance of animal wastes and process
20 wastes into waters of the state;

21 (d) The slope, vegetation, rainfall, and other factors
22 affecting the likelihood or frequency of discharge of animal
23 wastes manure and process waste into waters of the state; and

24 (e) Other relevant factors.

25 (2) No AFO shall be designated under this subsection unless

1 the department has conducted an on-site inspection of the
2 operation and determined that the operation should and could be
3 regulated as a concentrated animal feeding operation. In
4 addition, no AFO with numbers of animals below a class II
5 concentrated animal feeding operation shall be designated as a
6 CAFO.

7 3. Regulatory or local controls imposed at any time by any
8 county, township, or other form of local government concerning
9 the establishment, permitting, design, construction, operation,
10 and management of any animal feeding operation shall be
11 consistent with the provisions of sections 644.600 to 644.657.
12 Local governing bodies may impose more restrictive controls only
13 after consultation with the board of the local soil and water
14 conservation district and such controls are based on empirical
15 peer-reviewed scientific data that clearly documents the need for
16 the more restrictive provisions.

17 4. Except as provided in subsections 5 and 6 of this
18 section, the department shall require at least, but not more
19 than, the following buffer distances between the nearest
20 confinement building or lagoon and any public building or
21 occupied residence, except a residence which is owned by the
22 concentrated animal feeding operation or a residence from which a
23 written agreement for operation is obtained:

24 (1) For class IC concentrated animal feeding operations,
25 one thousand feet;

1 (2) For class IB concentrated animal feeding operations,
2 two thousand feet; and

3 (3) For class IA concentrated animal feeding operations,
4 three thousand feet.

5 5. All concentrated animal feeding operations in existence
6 as of June 25, 1996, shall be exempt from the buffer distances
7 prescribed in subsection 4 of this section. Such distances shall
8 not apply to concentrated animal feeding operations which have
9 received a written agreement which has been signed by all
10 affected property owners within the buffer distance.

11 6. The department may, upon review of the information
12 contained in the site plan including, but not limited to, the
13 prevailing winds, topography and other local environmental
14 factors, authorize a distance which is less than the distance
15 prescribed in subsection 4 of this section. The department's
16 recommendation shall be sent to the governing body of the county
17 in which such site is proposed. The department's authorized
18 buffer distance shall become effective unless the county
19 governing body rejects the department's recommendation by a
20 majority vote at the next meeting of the governing body after the
21 recommendation is received.

22 7. Nothing in this section shall be construed as
23 restricting local controls.

24 644.615. 1. Prior to filing an application to acquire a
25 construction permit from the department for a new facility or for

1 an increase of animal units to an existing facility, the owner or
2 operator of any class IA concentrated animal feeding operation
3 shall provide the following information to the department, to the
4 county governing body, and to all adjoining property owners of
5 property located within one and one-half times the buffer
6 distance as specified in subsection 4 of section 644.610:

7 (1) The number of animals anticipated at such IA facility;

8 (2) A general description of the waste handling plan and
9 layout of the facility;

10 (3) The location and number of acres of such facility;

11 (4) Name, address, telephone number, and registered agent
12 or other appropriate contact for further information as it
13 relates to subdivisions (1) to (3) of this subsection;

14 (5) A statement explaining that the department will accept
15 written comments from the public for a period of thirty days
16 after the department places the draft permit on public notice;
17 and

18 (6) The address of the department's regional or state
19 office.

20 2. The department shall require proof of such notification
21 prior to processing an application for a construction permit.
22 Proof of notification shall consist of a statement certifying
23 that the notification was accomplished by mailing a letter to the
24 department, the county governing body, and to all adjoining
25 property owners as described in subsection 1 of this section at

1 their last known address as maintained by the county assessor's
2 office.

3 3. The department shall not issue a permit to a facility
4 described in subsection 1 of this section to engage in any
5 activity regulated by the department unless the applicant is
6 substantially in compliance with sections 644.600 to 644.655.

7 4. The department shall issue a permit or respond with a
8 letter of comment to permit applicants within forty-five days of
9 receiving a completed permit application.

10 644.617. Notwithstanding any other provision of law to the
11 contrary, any corporation or cooperative engaged in farming, as
12 defined in section 350.010, RSMo, shall not be eligible for any
13 state tax credits, deductions, state grants, loans, or other
14 financial or economic assistance, unless a family farm or a
15 family farm corporation, as defined in section 350.010, RSMo,
16 receives such credits, deductions, grants, loans, or other
17 assistance. This section does not apply to agricultural
18 processing or food processing facilities.

19 644.625. 1. The owner or operator of any class IA
20 liquified animal waste handling facility utilizing a flush system
21 shall employ one or more persons who shall visually inspect the
22 liquified animal waste handling facility for unauthorized
23 discharge and structural integrity of any lagoon with a water
24 level less than eighteen inches below the emergency spillway at
25 least every twelve hours with a deviation of not to exceed three

1 hours. The owner or operator of the facility shall keep records
2 of each inspection. Such records shall be retained for three
3 years. The department shall provide or approve a form provided
4 by the owner or operator for each facility for such inspections.

5 2. All new construction permits for liquified animal waste
6 handling facilities utilizing a flush system shall have an
7 electronic or mechanical shutoff of the system in the event of
8 pipe stoppage. As of July 1, 1997, all existing liquified animal
9 waste handling facilities utilizing a flush system shall have, at
10 a minimum, an electronic or mechanical shutoff of the system in
11 the event of pipe stoppage or backflow.

12 644.630. 1. The owner or operator of every liquified
13 animal waste handling facility utilizing a flush system that
14 poses a risk as determined by the department to any public
15 drinking water supply or any aquatic life, or lies within a
16 drainage basin and is within three hundred feet of any adjacent
17 landowner, shall have a failsafe containment structure or earthen
18 dam that will contain, in the event of an unauthorized discharge,
19 a minimum volume equal to the maximum capacity of flushing in any
20 twenty-four hour period from all gravity outfall lines, recycle
21 pump station and recycle force mains.

22 2. Construction of such structure or dam, as provided in
23 subsection 1 of this section, shall commence within ninety days
24 of June 25, 1996.

25 644.635. Within twenty-four hours, any unauthorized

1 discharge by a class IA concentrated animal feeding operation
2 that has crossed the property line of the facility or any
3 unauthorized discharge by a class IA concentrated animal feeding
4 operation that utilizes a flush system of which the failsafe
5 containment structure or earthen dam has failed to contain and
6 has crossed the property line of the facility, or enters waters
7 of the state shall be reported to the department and to all
8 adjoining property owners of the facility onto whose property the
9 unauthorized discharge flowed.

10 644.640. There is hereby established in the state treasury
11 the "Concentrated Animal Feeding Operation Indemnity Fund", to be
12 known as the "fund" for the purposes of sections 644.640 to
13 644.647. All fees or other moneys payable pursuant to the
14 provisions of section 644.645 or other moneys received including
15 gifts, grants, appropriations, and bequests from federal,
16 private, or other sources made for the purpose of the provisions
17 of sections 644.600 to 644.655, shall be payable to and collected
18 by the director of the department of natural resources and
19 deposited in this fund. The money in this fund, upon
20 appropriation, shall be expended to close class IA, class IB,
21 class IC and class II concentrated animal feeding operations as
22 defined in the department's rules, that have been placed in the
23 control of the government due to bankruptcy or failure to pay
24 property taxes, or if the class IA, class IB, class IC or class
25 II concentrated animal feeding operation is abandoned property.

1 "Abandoned property", for the purposes of this section, means
2 real property previously used for, or which has the potential to
3 be used for, agricultural purposes which has been placed in the
4 control of the state, a county, or municipal government, or an
5 agency thereof, through donation, purchase, tax delinquency,
6 foreclosure, default or settlement, including conveyance by deed
7 in lieu of foreclosure, and has been vacant for a period of not
8 less than three years. Any portion of the fund not immediately
9 needed for the purposes authorized shall be invested by the state
10 treasurer as provided by the constitution and laws of this state.
11 All income from such investments shall be deposited in the fund.
12 Any unexpended balance in the fund at the end of any
13 appropriation period shall not be transferred to the general
14 revenue fund and, accordingly, shall be exempt from the
15 provisions of section 33.080, RSMo, relating to the transfer of
16 funds to the general revenue funds of the state by the state
17 treasurer.

18 644.645. 1. The owner or operator of each class IA
19 concentrated animal feeding operation utilizing a liquified
20 animal waste handling facility shall remit to the department of
21 natural resources a fee of ten cents per animal unit permitted to
22 be deposited in the fund. The fee is due and payable to the
23 department on the first anniversary of issuance of each owner or
24 operator permit to operate such a facility and for nine years
25 thereafter on the same date. The department of natural resources

1 shall provide forms which such owner or operator shall use to
2 file and pay this fee.

3 2. The fund shall be administered by the department for the
4 purpose of carrying out the provisions of sections 644.600 to
5 644.655, relating to closure of class IA, class IB, class IC and
6 class II concentrated animal feeding operation wastewater
7 lagoons.

8 3. The fund administrators may only expend moneys for
9 animal waste lagoon closure activities on real property which:

10 (1) Has been placed in the control of the state, a county,
11 or municipal government, or an agency thereof, through donation,
12 purchase, tax delinquency, foreclosure, default or settlement,
13 including conveyance by deed in lieu of foreclosure, and pose a
14 threat to human health, the environment, or a threat to
15 groundwater; and

16 (2) The state, county, or municipal government, or an
17 agency thereof, has made reasonable and prudent efforts to sell
18 said property to a qualifying purchaser.

19 4. The fund administrators shall expend no more than one
20 hundred thousand dollars per lagoon for animal waste lagoon
21 closure activities. The fund administrators shall only expend
22 those moneys necessary to achieve a minimum level of closure and
23 still protect human health and the environment. Closure
24 activities shall include lagoon dewatering and removal of animal
25 waste sludge, if any, both of which shall be land applied at a

1 nutrient management application rate designed to minimize
2 phosphorus and nitrogen transport from fields to surface waters
3 in compliance with the technical standards for nutrient
4 management established by the director or otherwise used or
5 disposed of in a manner approved by the director. After
6 dewatering, lagoons which are located in a drainage basin and are
7 capable of meeting all applicable pond requirements of the
8 Natural Resources Conservation Service (NRCS) with minimal
9 additional expense should be maintained as a pond. Otherwise,
10 the lagoon berms should be breached and graded in such a manner
11 to reasonably conform to the surrounding land contours.

12 644.647. In the event the department determines that a
13 class IA, class IB, class IC or class II concentrated animal
14 feeding operation has been successfully closed by the owner or
15 operator, all moneys paid by such operation into the concentrated
16 animal feeding operation indemnity fund shall be returned to such
17 operation.

18 644.650. The department shall conduct at least one on-site
19 inspection of each facility quarterly.

20 644.655. 1. No rule or portion of a rule promulgated under
21 the authority of sections 644.600 to 644.655 shall become
22 effective unless it has been promulgated pursuant to the
23 provisions of chapter 536, RSMo.

24 2. Sections 644.600 to 644.655 shall be administered by the
25 clean water commission pursuant to the provisions and

1 requirements of this chapter.

2 3. The provisions of sections 644.600 to 644.655 shall not
3 be construed to apply to any livestock market.

4 644.657. The provisions of this act shall not be construed
5 to apply to any livestock market.

6 Section 1. 1. In letting contracts for the performance of
7 any job or service for the removal or clean up of waste tires
8 pursuant to chapter 260, RSMo, the department of natural
9 resources shall, in addition to the requirements of sections
10 34.073 and 34.076, RSMo, and any other points awarded during the
11 evaluation process, give to any vendor that meets one or more of
12 the following factors a five percent preference and ten bonus
13 points for each factor met:

14 (1) The bid is submitted by a vendor that has resided or
15 maintained its headquarters or principal place of business in
16 Missouri continuously for the four years immediately preceding
17 the date on which the bid is submitted;

18 (2) The bid is submitted by a nonresident corporation
19 vendor that has an affiliate or subsidiary that employs at least
20 twenty state residents and has maintained its headquarters or
21 principal place of business in Missouri continuously for the four
22 years immediately preceding the date on which the bid is
23 submitted;

24 (3) The bid is submitted by a vendor that resides or
25 maintains its headquarters or principal place of business in

1 Missouri and, for the purposes of completing the bid project and
2 continuously over the entire term of the project, an average of
3 at least seventy-five percent of such vendor's employees are
4 Missouri residents who have resided in the state continuously for
5 at least two years immediately preceding the date on which the
6 bid is submitted. Such vendor must certify the residency
7 requirements of this subdivision and submit a written claim for
8 preference at the time the bid is submitted;

9 (4) The bid is submitted by a nonresident vendor that has
10 an affiliate or subsidiary that employs at least twenty state
11 residents and has maintained its headquarters or principal place
12 of business in Missouri and, for the purposes of completing the
13 bid project and continuously over the entire term of the project,
14 an average of at least seventy-five percent of such vendor's
15 employees are Missouri residents who have resided in the state
16 continuously for at least two years immediately preceding the
17 date on which the bid is submitted. Such vendor must certify the
18 residency requirements of this subdivision and submit a written
19 claim for preference at the time the bid is submitted;

20 (5) The bid is submitted by any vendor that provides
21 written certification that the end use of the tires collected
22 during the project will be for fuel purposes or for the
23 manufacture of a useable good or product.

24 2. For purposes of receiving bid preferences pursuant to
25 this section, the manufacture of usable goods or products shall

1 include, but not be limited to, energy recovery fuel chips,
2 alternate daily cover, civil drainage media, playground chips,
3 and crumb rubber, all as commonly understood in the waste tire
4 disposal industry.

5 Section 2. A steam heating company having fewer than one
6 hundred customers in this state may file under a small company
7 rate procedure promulgated by the commission which shall be
8 consistent with 4 CSR 240-3.240 by giving notice to the secretary
9 of the commission, the public counsel, each customer, and each
10 gas corporation or electric corporation providing utility service
11 in the area. Any customer, gas corporation, or electric
12 corporation responding within thirty days of the date of the
13 notice shall be entitled to copies of all filings subsequently
14 made in the case and may participate in any conferences or
15 hearings therein.

16 Section 3. 1. In any home rule city with more than eighty-
17 four thousand five hundred but less than eighty-four thousand six
18 hundred inhabitants, the governing body of such city shall allow
19 owners of real property located beyond the corporate limits of
20 such city to connect sanitary sewer lines serving improvements
21 constructed or to be constructed in accordance with applicable
22 county ordinances on the respective parcel of real property to
23 any sanitary sewer line of such city located within an easement
24 on the respective parcel of real property provided that the
25 following conditions are met:

1 (1) The easement is located on a tract of real estate
2 adjacent to a state highway;

3 (2) The tract of real estate across which the easement is
4 located constitutes a tract of real property containing more than
5 thirty acres and is located within two miles of karst topography;

6 (3) The easement and sanitary sewer line located therein
7 have been in existence for more than ten years; and

8 (4) The owner of the respective parcel of real property
9 pays the normal and customary connection fees associated with
10 such connection.

11 2. In no event shall the annexation of the respective
12 parcel of real property by such city constitute a condition
13 precedent to the owner's right to connect with any sanitary sewer
14 line of such city.

15 Section 4. No city, county, or other political subdivision
16 of the state of Missouri shall impose a requirement for financial
17 responsibility on owners or operators of underground or above
18 ground petroleum storage tanks. Beginning August 28, 2003, the
19 provisions of this section shall fully preempt any such local
20 financial responsibility requirements which were enacted after
21 December 31, 2002.

22 Section 5. Notwithstanding any other provision of law to
23 the contrary, no rule or regulation proposed, promulgated,
24 adopted, or amended by the department of agriculture division of
25 weights and measures shall be applied retroactively to existing

1 facilities or construction unless the department or the division
2 establishes by clear and convincing evidence that the rule or
3 regulation shall be applied retroactively to protect the health
4 and safety of the public.

5 Section 6. Notwithstanding any other provision of law to
6 the contrary, no rule or regulation proposed, promulgated,
7 adopted, or amended by the division of weights and measures
8 within the department of agriculture shall be applied
9 retroactively unless the department or the division establishes
10 by clear and convincing evidence that the rule or regulation must
11 be applied retroactively to protect the health or safety of the
12 public.

13 [319.137. Rules and regulations promulgated
14 by the United States Environmental Protection
15 Agency under subtitle I of the federal
16 Resource Conservation Recovery Act of 1976
17 (P.L. 94-580), as amended, may be adopted by
18 the department by reference. The department
19 may adopt rules and regulations that are more
20 stringent than those issued by the United
21 States Environmental Protection Agency if
22 such rules or regulations are necessary to
23 protect human health or the environment. Any
24 such rule shall be adopted only after due
25 notice and public hearing in accordance with
26 the provisions of this section, chapter 536,
27 RSMo, and chapter 644, RSMo. No rule or
28 portion of a rule promulgated under the
29 authority of sections 319.100 to 319.139
30 shall become effective unless it has been
31 promulgated pursuant to the provisions of
32 section 536.024, RSMo.]

33 [640.700. Sections 640.700, 640.725,
34 640.730, 640.735 and 640.750 shall only apply
35 to class IA facilities as defined by the
36 department rules in effect as of January 30,
37 1996, which use a flush system.]

1 [640.703. For the purposes of sections
2 640.700 to 640.755, the following terms mean:

3 (1) "Animal units", shall be defined by
4 rules of the department in effect as of
5 January 30, 1996;

6 (2) "Animal waste wet handling
7 facility", includes all gravity outfall
8 lines, recycle pump stations, recycle force
9 mains and appurtenances;

10 (3) "Class IA", any concentrated animal
11 feeding operation with a capacity of seven
12 thousand animal units or more;

13 (4) "Class IB", any concentrated animal
14 feeding operation with a capacity between
15 three thousand animal units and six thousand
16 nine hundred and ninety-nine animal units
17 inclusive;

18 (5) "Class IC", any concentrated animal
19 feeding operation with a capacity between one
20 thousand animal units and two thousand nine
21 hundred and ninety-nine animal units
22 inclusive;

23 (6) "Class II", any concentrated animal
24 feeding operation with a capacity of at least
25 three hundred animal units, but less than one
26 thousand animal units;

27 (7) "Department", the department of
28 natural resources;

29 (8) "Facility", any class IA
30 concentrated animal feeding operation which
31 uses a flush system;

32 (9) "Flush system", a system of moving
33 or removing manure utilizing liquid as the
34 primary agent as opposed to a primarily
35 mechanical or automatic device;

36 (10) "Sensitive areas", areas in the
37 watershed located within five miles upstream
38 of any stream or river drinking water intake
39 structure, other than those intake structures
40 on the Missouri and Mississippi rivers.]

41 [640.710. 1. The department shall
42 promulgate rules regulating the
43 establishment, permitting, design,
44 construction, operation and management of
45 class I facilities. The department shall
46 have the authority and jurisdiction to
47 regulate the establishment, permitting,
48 design, construction, operation and
49 management of any class I facility. Such

1 rules may require monitoring wells on a
2 site-specific basis when, in the
3 determination of the division of geology and
4 land survey, class IA concentrated animal
5 feeding operation lagoons are located in
6 hydrologically sensitive areas where the
7 quality of groundwater may be compromised.
8 Such rules and regulations shall be designed
9 to afford a prudent degree of environmental
10 protection while accommodating modern
11 agricultural practices.

12 2. Except as provided in subsections 3
13 and 4 of this section, the department shall
14 require at least but not more than the
15 following buffer distances between the
16 nearest confinement building or lagoon and
17 any public building or occupied residence,
18 except a residence which is owned by the
19 concentrated animal feeding operation or a
20 residence from which a written agreement for
21 operation is obtained:

22 (1) For concentrated animal feeding
23 operations with at least one thousand animal
24 units, one thousand feet;

25 (2) For concentrated animal feeding
26 operations with between three thousand and
27 six thousand nine hundred ninety-nine animal
28 units inclusive, two thousand feet; and

29 (3) For concentrated animal feeding
30 operations of seven thousand or more animal
31 units, three thousand feet.

32 3. All concentrated animal feeding
33 operations in existence as of June 25, 1996,
34 shall be exempt from the buffer distances
35 prescribed in subsection 2 of this section.
36 Such distances shall not apply to
37 concentrated animal feeding operations which
38 have received a written agreement which has
39 been signed by all affected property owners
40 within the buffer distance.

41 4. The department may, upon review of
42 the information contained in the site plan
43 including, but not limited to, the prevailing
44 winds, topography and other local
45 environmental factors, authorize a distance
46 which is less than the distance prescribed in
47 subsection 2 of this section. The
48 department's recommendation shall be sent to
49 the governing body of the county in which
50 such site is proposed. The department's

1 authorized buffer distance shall become
2 effective unless the county governing body
3 rejects the department's recommendation by a
4 majority vote at the next meeting of the
5 governing body after the recommendation is
6 received.

7 5. Nothing in this section shall be
8 construed as restricting local controls.]

9 [640.715. 1. Prior to filing an
10 application to acquire a construction permit
11 from the department, the owner or operator of
12 any class IA, class IB, or class IC
13 concentrated animal feeding operation shall
14 provide the following information to the
15 department, to the county governing body and
16 to all adjoining property owners of property
17 located within one and one-half times the
18 buffer distance as specified in subsection 2
19 of section 640.710 for the size of the
20 proposed facility:

21 (1) The number of animals anticipated
22 at such facility;

23 (2) The waste handling plan and general
24 layout of the facility;

25 (3) The location and number of acres of
26 such facility;

27 (4) Name, address, telephone number and
28 registered agent for further information as
29 it relates to subdivisions (1) to (3) of this
30 subsection;

31 (5) Notice that the department will
32 accept written comments from the public for a
33 period of thirty days; and

34 (6) The address of the regional or
35 state office of the department.

36 The department shall require proof of such
37 notification upon accepting an application
38 for a construction permit. The department
39 shall accept written comments from the public
40 for thirty days after receipt of application
41 for construction permit.

42 2. The department shall not issue a
43 permit to a facility described in subsection
44 1 of this section to engage in any activity
45 regulated by the department unless the
46 applicant is in compliance with sections
47 640.700 to 640.755.

48 3. The department shall issue a permit

1 or respond with a letter of comment to the
2 owner or operator of such facility within
3 forty-five days of receiving a completed
4 permit application and verification of
5 compliance with subsection 1 of this
6 section.]

7 [640.725. 1. The owner or operator of
8 any flush system animal waste wet handling
9 facility shall employ one or more persons who
10 shall visually inspect the animal waste wet
11 handling facility and lagoons for
12 unauthorized discharge and structural
13 integrity at least every twelve hours with a
14 deviation of not to exceed three hours. The
15 owner or operator of the facility shall keep
16 records of each inspection. Such records
17 shall be retained for three years. The
18 department shall provide or approve a form
19 provided by the owner or operator for each
20 facility for such inspections.

21 2. All new construction permits for
22 flush system animal waste wet handling
23 facilities shall have an electronic or
24 mechanical shutoff of the system in the event
25 of pipe stoppage. As of July 1, 1997, all
26 existing flush system animal waste wet
27 handling facilities shall have, at a minimum,
28 an electronic or mechanical shutoff of the
29 system in the event of pipe stoppage or
30 backflow.]

31 [640.730. 1. The owner or operator of
32 every facility, with a flush system animal
33 waste wet handling facility that poses a risk
34 as determined by the department to any public
35 drinking water supply or any aquatic life, or
36 lies within a drainage basin and is within
37 three hundred feet of any adjacent landowner,
38 shall have a failsafe containment structure
39 or earthen dam that will contain, in the
40 event of an unauthorized discharge, a minimum
41 volume equal to the maximum capacity of
42 flushing in any twenty-four hour period from
43 all gravity outfall lines, recycle pump
44 station and recycle force mains.

45 2. Construction of such structure or
46 dam, as provided in subsection 1 of this
47 section, shall commence within ninety days of
48 June 25, 1996.]

1 [640.735. Within twenty-four hours, any
2 unauthorized discharge by a flush system
3 animal waste wet handling facility that has
4 crossed the property line of the facility or
5 any unauthorized discharge by a flush system
6 animal waste wet handling facility of which
7 the failsafe containment structure or earthen
8 dam has failed to contain and has crossed the
9 property line of the facility, or enters
10 waters of the state shall be reported to the
11 department and to all adjoining property
12 owners of the facility as listed on the
13 site-specific permit.]

14 [640.740. There is hereby established
15 in the state treasury the "Concentrated
16 Animal Feeding Operation Indemnity Fund", to
17 be known as the "fund" for the purposes of
18 sections 640.740 to 640.747. All fees or
19 other moneys payable pursuant to the
20 provisions of section 640.745 or other moneys
21 received including gifts, grants,
22 appropriations, and bequests from federal,
23 private or other sources made for the purpose
24 of the provisions of this act shall be
25 payable to and collected by the director of
26 the department of natural resources and
27 deposited in this fund. The money in this
28 fund, upon appropriation, shall be expended
29 to close class IA, class IB, class IC and
30 class II concentrated animal feeding
31 operations as defined in the department's
32 rules, that have been placed in the control
33 of the government due to bankruptcy or
34 failure to pay property taxes, or if the
35 class IA, class IB, class IC or class II
36 concentrated animal feeding operation is
37 abandoned property. "Abandoned property",
38 for the purposes of this section, means real
39 property previously used for, or which has
40 the potential to be used for, agricultural
41 purposes which has been placed in the control
42 of the state, a county, or municipal
43 government, or an agency thereof, through
44 donation, purchase, tax delinquency,
45 foreclosure, default or settlement, including
46 conveyance by deed in lieu of foreclosure,
47 and has been vacant for a period of not less
48 than three years. Any portion of the fund
49 not immediately needed for the purposes

1 authorized shall be invested by the state
2 treasurer as provided by the constitution and
3 laws of this state. All income from such
4 investments shall be deposited in the fund.
5 Any unexpended balance in the fund at the end
6 of any appropriation period shall not be
7 transferred to the general revenue fund and,
8 accordingly, shall be exempt from the
9 provisions of section 33.080, RSMo, relating
10 to the transfer of funds to the general
11 revenue funds of the state by the state
12 treasurer.]

13 [640.745. 1. The owner or operator of
14 each class IA concentrated animal feeding
15 operation utilizing flush systems shall remit
16 to the department of natural resources a fee
17 of ten cents per animal unit permitted to be
18 deposited in the fund. The fee is due and
19 payable to the department on the first
20 anniversary of issuance of each owner or
21 operator permit to operate such a facility
22 and for nine years thereafter on the same
23 date. The department of natural resources
24 shall provide forms which such owner or
25 operator shall use to file and pay this fee.

26 2. The fund shall be administered by
27 the department for the purpose of carrying
28 out the provisions of sections 640.700 to
29 640.755, relating to closure of class IA,
30 class IB, class IC and class II concentrated
31 animal feeding operation wastewater lagoons.

32 3. The fund administrators may only
33 expend moneys for animal waste lagoon closure
34 activities on real property which:

35 (1) Has been placed in the control of
36 the state, a county, or municipal government,
37 or an agency thereof, through donation,
38 purchase, tax delinquency, foreclosure,
39 default or settlement, including conveyance
40 by deed in lieu of foreclosure, and pose a
41 threat to human health, the environment, or a
42 threat to groundwater; and

43 (2) The state, county, or municipal
44 government, or an agency thereof, has made
45 reasonable and prudent efforts to sell said
46 property to a qualifying purchaser.

47 4. The fund administrators shall expend
48 no more than one hundred thousand dollars per
49 lagoon for animal waste lagoon closure

1 activities. The fund administrators shall
2 only expend those moneys necessary to achieve
3 a minimum level of closure and still protect
4 human health and the environment. Closure
5 activities shall include lagoon dewatering
6 and removal of animal waste sludge, if any,
7 both of which shall be land applied at a
8 nutrient management application rate based on
9 the most limiting nutrient as determined by
10 Missouri clean water commission regulation.
11 After dewatering, lagoons which are located
12 in a drainage basin and are capable of
13 meeting all applicable pond requirements of
14 the Natural Resources Conservation Service
15 (NRCS) with minimal additional expense should
16 be maintained as a pond. Otherwise, the
17 lagoon berms should be breached and graded in
18 such a manner to reasonably conform to the
19 surrounding land contours.]

20 [640.747. In the event the department
21 determines that a class IA, class IB, class
22 IC or class II concentrated animal feeding
23 operation has been successfully closed by the
24 owner or operator, all moneys paid by such
25 operation into the concentrated animal
26 feeding operation indemnity fund shall be
27 returned to such operation.]

28 [640.750. The department shall conduct
29 at least one on-site inspection of each
30 facility quarterly.]

31 [640.755. 1. No rule or portion of a
32 rule promulgated under the authority of
33 sections 640.700 to 640.755 shall become
34 effective unless it has been promulgated
35 pursuant to the provisions of section
36 536.024, RSMo.

37 2. Sections 640.700 to 640.755 shall be
38 administered by the clean water commission
39 pursuant to the provisions and requirements
40 of chapter 644, RSMo.]

41 [640.758. The provisions of this act
42 shall not be construed to apply to any
43 livestock market.]